

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
RC PETITION

DO NOT WRITE IN THIS SPACE

Case No.


19-RC-287954

Date Filed

12/20/2021

INSTRUCTIONS: Unless e-Filed using the Agency's website, www.nlr.gov/, submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 6b below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

1. PURPOSE OF THIS PETITION: RC-CERTIFICATION OF REPRESENTATIVE - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. **The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.**

2a. Name of Employer: Starbucks Corporation		2b. Address(es) of Establishment(s) involved (Street and number, City, State, ZIP code): 101 Broadway E, Seattle, WA 98102	
3a. Employer Representative - Name and Title: Kevin Johnson, President and CEO (see attached for Johnna Turvin)		3b. Address (if same as 2b - state same): 2401 Utah Avenue South, Suite 800 Seattle, WA 98134	
3c. Tel. No. 206-318-2212	3d. Cell No.	3e. Fax No.	3f. E-Mail Address kevin.johnson@starbucks.com
4a. Type of Establishment (Factory, mine, wholesaler, etc.) Coffee shop		4b. Principal Product or Service Food and beverage	5a. City and State where unit is located: Seattle, WA
5b. Description of Unit Involved: Included: All full-time and regular part-time Baristas, Shift Supervisors, Asst. Store Managers Excluded: Store Managers; office clericals, guards, and supervisors as defined by the Act			6a. Number of Employees in Unit: 15 6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Check One: <input type="checkbox"/> 7a. Request for recognition as Bargaining Representative was made on (Date) _____ and Employer declined recognition on or about (Date) _____ (If no reply received, so state). <input type="checkbox"/> 7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.			
8a. Name of Recognized or Certified Bargaining Agent (If none, so state) None		8b. Address:	
8c. Tel. No.	8d. Cell No.	8e. Fax No.	8f. E-Mail Address
8g. Affiliation, if any:		8h. Date of Recognition or Certification	8i. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year)
9. Is there now a strike or picketing at the Employer's establishment(s) involved? No If so, approximately how many employees are participating? _____ (Name of Labor Organization) _____, has picketed the Employer since (Month, Day, Year) _____			
10. Organizations or individuals other than Petitioner and those named in items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5b above. (If none, so state) None			
10a. Name		10b. Address	10c. Tel. No.
			10d. Cell No.
		10e. Fax No.	10f. E-Mail Address
11. Election Details: If the NLRB conducts and election in this matter, state your position with respect to any such election:			11a. Election Type: <input type="checkbox"/> Manual <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail
11b. Election Date(s): 1/10/22		11c. Election Time(s): N/A	11d. Election Location(s): N/A
12a. Full Name of Petitioner (including local name and number): Workers United		12b. Address (street and number, city, State and ZIP code): 22 South 22nd St Philadelphia, PA 19103	
12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (if none, so state): Workers United			
12d. Tel. No. 646-448-6414	12e. Cell No.	12f. Fax No. 215-575-9065	12g. E-Mail Address rminter@pjbwu.org
13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.			
13a. Name and Title: Ian Hayes, Attorney		13b. Address (street and number, city, State and ZIP code): Creighton, Johnsen & Giroux 1103 Delaware Ave., Buffalo, NY 14209	
13c. Tel. No. 716-854-0007	13d. Cell No.	13e. Fax No. 716-854-0004	13f. E-Mail Address ihayes@cpjglaborlaw.com
I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.			
Name (Print) Ian Hayes		Signature 	Title Attorney
			Date 12/20/21

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

Attachment to RC Petition

3a. Employer Representative

Johnna Turvin
District Manager
503-260-6503
jturvin@starbucks.com

CERTIFICATE OF SERVICE

Employer Name:

Service on the Employer

I hereby certify that on 12-20-21 (date), a copy of the petition involving the Employer named above, a Statement of Position (Form NLRB-505), and a Description of Procedures (Form NLRB-4812) were served on the Employer by: (check whichever is applicable)

- ☒ e-mail to the email address shown on the petition.
- ☐ facsimile (with the permission of the Employer) to the facsimile number shown on the petition.
- ☐ overnight mail to the mailing address shown on the petition.
- ☐ hand-delivery to _____ (name of Employer's representative) at the following address: _____.

Service on the Other Party Named in the Petition

I hereby certify that on _____ (date), a copy of the petition involving the Employer named above, a Statement of Position (Form NLRB-505), and a Description of Procedures (Form NLRB-4812) were also served on _____ (name of party or parties) by: (check whichever is applicable)

- ☐ email to the email address shown on the petition.
- ☐ facsimile (with the permission of the party) to the facsimile number shown on the petition.
- ☐ overnight mail to the mailing address shown on the petition.
- ☐ hand-delivery to _____ (name of party's representative) at the following address: _____.

Service on the Other Party Named in the Petition

I hereby certify that on _____ (date), a copy of the petition involving the Employer named above, a Statement of Position (Form NLRB-505), and a Description of Procedures (Form NLRB-4812) were also served on _____ (name of party or parties) by: (check whichever is applicable)

- ☐ email to the email address shown on the petition.
- ☐ facsimile (with the permission of the party) to the facsimile number shown on the petition.
- ☐ overnight mail to the mailing address shown on the petition.
- ☐ hand-delivery to _____ (name of party's representative) at the following address: _____.

/s/ Ian Hayes
Signature

Ian Hayes, Attorney
Name and Title

12-20-21
Date



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 19
915 2nd Ave Ste 2948
Seattle, WA 98174-1006

Agency Website: www.nlr.gov
Telephone: (206)220-6300
Fax: (206)220-6305



Download
NLRB
Mobile App

December 21, 2021

URGENT

kevin.johnson@starbucks.com
Kevin Johnson, President and CEO
Starbucks Corporation
2401 Utah Avenue South
Suite 800
Seattle, WA 98134-1435

Re: Starbucks Corporation
Case 19-RC-287954

Dear Mr. Johnson:

Enclosed is a copy of a petition that Workers United filed with the National Labor Relations Board (NLRB) seeking to represent certain of your employees. After a petition is filed, the employer is required to promptly take certain actions so please read this letter carefully to make sure you are aware of the employer's obligations. This letter tells you how to contact the Board agent who will be handling this matter, about the requirement to post and distribute the Notice of Petition for Election, the requirement to complete and serve a Statement of Position Form, the Petitioner's requirement to complete and serve a Responsive Statement of Position Form, a scheduled hearing in this matter, other information needed including a voter list, your right to be represented, and NLRB procedures, including how to submit documents to the NLRB.

Investigator: This petition will be investigated by Field Attorney SARAH K. BURKE whose telephone number is (206)220-6291. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. If the agent is not available, you may contact Supervisory Field Examiner DIANNE TODD whose telephone number is (206)220-6319. The Board agent may also contact you and the other party or parties to schedule a conference meeting or telephonic or video conference for some time before the close of business the day following receipt of the final Responsive Statement(s) of Position. This will give the parties sufficient time to determine if any issues can be resolved prior to hearing or if a hearing is necessary. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

Required Posting and Distribution of Notice: You must post the enclosed Notice of Petition for Election by December 29, 2021 in conspicuous places, including all places where notices to employees are customarily posted. The Notice of Petition for Election must be posted so all pages are simultaneously visible. If you customarily communicate electronically with

employees in the petitioned-for unit, you must also distribute the notice electronically to them. You must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Posting and distribution of the Notice of Petition for Election will inform the employees whose representation is at issue and the employer of their rights and obligations under the National Labor Relations Act in the representation context. Failure to post or distribute the notice may be grounds for setting aside an election if proper and timely objections are filed.

Required Statement of Position: In accordance with Section 102.63(b) of the Board's Rules, the employer is required to complete the enclosed Statement of Position form (including the attached Commerce Questionnaire), have it signed by an authorized representative, and file a completed copy (with all required attachments) with this office and serve it on all parties named in the petition such that it is received by them by **noon Pacific Time on January 04, 2022**. This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike other e-Filed documents, will *not* be timely if filed on the due date but after noon January 04, 2022.** If you have questions about this form or would like assistance in filling out this form, please contact the Board agent named above.

List(s) of Employees: The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from

contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Responsive Statement of Position: In accordance with Section 102.63(b) of the Board's Rules, following timely filing and service of an employer's Statement of Position, the petitioner is required to complete the enclosed Responsive Statement of Position form, have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in the employer's Statement of Position, such that it is received no later than **noon Pacific Time on January 07, 2022**.

Notice of Hearing: Enclosed is a Notice of Representation Hearing to be conducted at **9:00 A.M. on Wednesday, January 12, 2022** by way of **Video Conferencing Hearing-Zoom**, if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the regional director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, the NLRB will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party showing good cause, the regional director may postpone the hearing. A party desiring a postponement should make the request to the regional director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Other Information Needed Now: Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any of your employees in the unit involved in the petition (the petitioned-for unit);
- (b) The name and contact information for any other labor organization (union) claiming to represent any of the employees in the petitioned-for unit;
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.
- (d) If you desire a formal check of the showing of interest, you must provide an alphabetized payroll list of employees in the petitioned-for unit, with their job classifications, for the payroll period immediately before the date of this petition. Such a payroll list should be submitted as early as possible prior to the hearing. Ordinarily a formal check of the showing of interest is not performed using the employee list submitted as part of the Statement of Position.

Voter List: If an election is held in this matter, the employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular telephone numbers) of eligible voters. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. I am advising you of this requirement now, so that you will have ample time to prepare this list. The list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or at the Regional office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any “inside knowledge” or favored relationship with the NLRB. Their knowledge regarding this matter was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Procedures: Pursuant to Section 102.5 of the Board’s Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency’s web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determinations solely based on the documents and evidence properly submitted. All evidence

submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the petition.

Information about the NLRB and our customer service standards is available on our website, www.nlrb.gov, or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



RONALD K. HOOKS
Regional Director

CC:

Starbucks Corporation
101 Broadway E
Seattle, WA 98102
Phone: (206) 318-2212

jturvin@starbucks.com
Johnna Turvin, District Manager
Starbucks Corporation
Phone: (503) 260-6503

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)
6. Responsive Statement of Position (Form 506)

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National Labor Relations Board



NOTICE OF PETITION FOR ELECTION

Included: All full-time and regular part-time Baristas, Shift Supervisors, Asst. Store Managers.
Excluded: Store Managers; office clericals, guards, and supervisors as defined by the Act.

YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

IF AN ELECTION IS HELD, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- **Threatening loss of jobs or benefits by an employer or a union**
- **Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises**
- **An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity**
- **Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return**
- **Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals**
- **Threatening physical force or violence to employees by a union or an employer to influence their votes**

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to www.nlr.gov or contact the NLRB at (206)220-6300.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.



National Labor Relations Board





**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19**



STARBUCKS CORPORATION Employer and WORKERS UNITED Petitioner	Case 19-RC-287954
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NOTICE OF REPRESENTATION HEARING

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

IT IS HEREBY ORDERED that, pursuant to Sections 3(b) and 9(c) of the Act, a video hearing in the above-entitled matter is scheduled for **Wednesday, January 12, 2022 at 9:00 a.m. PT**. The video hearing will continue on consecutive days thereafter until concluded. At the hearing, the parties will have the right to appear by video and give testimony. The information necessary to participate in the video hearing will be provided to the parties prior to the hearing by the Hearing Officer.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, Starbucks Corporation must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that it is received by them by no later than **noon** Pacific time on January 04, 2022. Following timely filing and service of a Statement of Position by Starbucks Corporation, the Petitioner must complete its Responsive Statement of Position(s) responding to the issues raised in the Employer's and/or Union's Statement of Position and file them and all attachments with the Regional Director and serve them on the parties named in the petition such they are received by them no later than **noon** Pacific on January 07, 2022.

Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website (www.nlrb.gov), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden. Documents filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#)

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon** Pacific on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

Dated: December 21, 2021

Ronald K. Hooks

RONALD K. HOOKS
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 19
915 2nd Ave Ste 2948
Seattle, WA 98174-1006

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

Starbucks Corporation Employer and Workers United Petitioner	Case 19-RC-287954
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AFFIDAVIT OF SERVICE OF: Petition dated December 20, 2021, Notice of Representation Hearing dated December 21, 2021, Description of Procedures in Certification and Decertification Cases (Form NLRB-4812), Notice of Petition for Election, and Statement of Position Form (Form NLRB-505).

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on December 21, 2021, I served the above documents by electronic mail and regular mail upon the following persons, addressed to them at the following addresses:

Kevin Johnson, President and CEO
Starbucks Corporation
2401 Utah Avenue South
Suite 800
Seattle, WA 98134-1435
kevin.johnson@starbucks.com

Johnna Turvin, District Manager
Starbucks Corporation
Phone: (503) 260-6503
Email: jturvin@starbucks.com

Starbucks Corporation
101 Broadway E
Seattle, WA 98102
Phone: (206) 318-2212

Ian Hayes, Attorney
Creighton, Johnsen & Giroux
1103 Delaware Avenue
Buffalo, NY 14209
ihayes@cpjglaborlaw.com
Fax: (716)854-0004

Richard A. Minter, Organizing Director
Workers United
22 South 22nd Street
Philadelphia, PA 19103-3005
rminter@pjbwu.org
Fax: (215)575-9065

December 21, 2021

Date

Dennis Snook, Designated Agent of NLRB

Name

/s/ Annette S. La

Signature

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

DESCRIPTION OF REPRESENTATION CASE PROCEDURES
IN CERTIFICATION AND DECERTIFICATION CASES

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

Right to be Represented – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at www.nlr.gov or forward it to the NLRB Regional Office handling the petition as soon as possible.

Filing and Service of Petition – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

Notice of Hearing – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews the petition, certificate of service, and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 14 business days (excluding weekends and federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position and the Responsive Statement of Position(s). Included with the Notice of Representation Hearing are the following: (1) copy of the petition, (2) this form, (3) Statement of Position for non-petitioning parties, (4) petitioner's Responsive Statement of Position, (5) Notice of Petition for Election, and (6) letter advising how to contact the Board agent who will be handling the case and discussing those documents.

Hearing Postponement: Requests to postpone the hearing are not routinely granted, but the regional director may postpone the hearing for good cause. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request must be filed electronically ("E-Filed") on the Agency's website (www.nlr.gov) by following the instructions on the website. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Statement of Position Form and List(s) of Employees – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. In an **RC** or **RD** case, as part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on

the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon 8 business days from the issuance of the Notice of Hearing. The regional director may postpone the due date for filing and serving the Statement of Position for good cause. The Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Responsive Statement of Position – Petitioner's Responsive Statement(s) of Position solicits a response to the Statement(s) of Position filed by the other parties and further facilitates entry into election agreements or streamlines the preelection hearing. A petitioner must file a Responsive Statement of Position in response to each party's Statement of Position addressing each issue in each Statement of Position(s), if desired. In the case of an RM petition, the employer-petitioner must also provide commerce information and file and serve a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. Ordinarily, the Responsive Statement of Position must be electronically filed with the Regional Office and served on the other parties such that it is received by noon 3 business days prior to the hearing. The regional director may postpone the due date for filing and serving the Responsive Statement of Position for good cause. The Responsive Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Responsive Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Responsive Statement of Position due date. If a party wishes to request both a postponement of the hearing and a Postponement of the Responsive Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Posting and Distribution of Notice of Petition for Election – Within 5 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically to the employees in the petitioned-for unit if the employer customarily communicates with these employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

Election Agreements – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

Hearing Cancellation Based on Agreement of the Parties – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

Hearing – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

Purpose of Hearing: The primary purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit

appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative.

Issues at Hearing: Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; seasonal operation; potential mixed guard/non-guard unit; and eligibility formulas. At the hearing, the timely filed Statement of Position and Responsive Statement of Position(s) will be received into evidence. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

Preclusion: At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or Responsive Statement of Position(s) or to place in dispute in timely response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Conduct of Hearing: If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have disabilities falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

Official Record: An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made at the hearing will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

Motions and Objections: All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

Election Details: Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the

eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

Oral Argument and Briefs: Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be due within 5 business days of the close of the hearing. The hearing officer may allow up to 10 additional business days for such briefs prior to the close of hearing and for good cause. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. Briefs including electronic documents, filed with the Regional Director must be formatted as double-spaced in an 8½ by 11 inch format and must be e-filed through the Board's website, www.nlr.gov.

Regional Director Decision - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 10 business days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

Voter List – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge. The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction. To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction of elections unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

Waiver of Time to Use Voter List – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 calendar days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

Election – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

Withdrawal or Dismissal – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A STATEMENT OF POSITION FORM

Completing and Filing this Form: The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must EFile your Statement of Position at www.nlrb.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

Note: Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7.

Required Lists: The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

Consequences of Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
STATEMENT OF POSITION

DO NOT WRITE IN THIS SPACE

Case No.

19-RC-287954

Date Filed

December 20, 2021

INSTRUCTIONS: Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

Note: Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position

1c. Business Phone:

1e. Fax No.:

1b. Address (Street and number, city, state, and ZIP code)

1d. Cell No.:

1f. e-Mail Address

2. Do you agree that the NLRB has jurisdiction over the Employer in this case? ☐ Yes ☐ No

(A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)

3. Do you agree that the proposed unit is appropriate? ☐ Yes ☐ No (If not, answer 3a and 3b.)

a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.)

b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.

Added

Excluded

4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.

5. Is there a bar to conducting an election in this case? ☐ Yes ☐ No If yes, state the basis for your position.

6. Describe all other issues you intend to raise at the pre-election hearing.

7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at

[www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

(a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B)

(b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D)

8a. State your position with respect to the details of any election that may be conducted in this matter. Type: ☐ Manual ☐ Mail ☐ Mixed Manual/Mail

8b. Date(s)

8c. Time(s)

8d. Location(s)

8e. Eligibility Period (e.g. special eligibility formula)

8f. Last Payroll Period Ending Date

8g. Length of payroll period
☐ Weekly ☐ Biweekly ☐ Other (specify length)

9. Representative who will accept service of all papers for purposes of the representation proceeding

9a. Full name and title of authorized representative

9b. Signature of authorized representative

9c. Date

9d. Address (Street and number, city, state, and ZIP code)

9e. e-Mail Address

9f. Business Phone No.:

9g. Fax No.

9h. Cell No.

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME Starbucks Corporation	CASE NUMBER 19-RC-287954
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1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)**2. TYPE OF ENTITY**

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
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4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS**5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR****6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).****7A. PRINCIPAL LOCATION:****7B. BRANCH LOCATIONS:****8. NUMBER OF PEOPLE PRESENTLY EMPLOYED**

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES _____)

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$ _____		
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____		
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____		
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____		
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____		
H. Gross Revenues from all sales or performance of services (Check the largest amount): <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
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12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
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PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A RESPONSIVE STATEMENT OF POSITION FORM

Completing and Filing this Form: For **RC and RD petitions**, the Petitioner is required to complete this form in response to each timely filed and served Statement of Position filed by another party. For **RM petitions**, the Employer-Petitioner must complete a Responsive Statement of Position form and submit the list described below. In accordance with Section 102.63(b) of the Board's Rules, if you are required to complete the form, you must have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in another party's Statement of Position, such that it is received no later than noon three business days before the date of the hearing. A separate form must be completed for each timely filed and properly served Statement of Position you receive. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must E-File your Responsive Statement of Position at www.NLRB.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed. Note that if you are completing this form as a PDF downloaded from www.NLRB.gov, the form will lock upon signature and no further editing may be made.**

Required List: In addition to responding to the issues raised in another party's Statement of Position, if any, the Employer-Petitioner in an RM case is required to file and serve on the parties a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. This list must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the list in the required form, the list must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx

Consequences of Failure to Submit a Responsive Statement of Position: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
RESPONSIVE STATEMENT OF POSITION – RC, RD or RM PETITION

DO NOT WRITE IN THIS SPACE

Case No.
19-RC-287954

Date Filed
December 20, 2021

INSTRUCTIONS: If a party has submitted and served on you a timely Statement of Position to an RC, RD or RM petition, the Petitioner must submit this Responsive Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and any attachments on each party named in the petition in this case such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner. The Petitioner-Employer in a RM case is required to file this Responsive Statement of Position and include an appropriate employee list without regard to whether another party has filed a Statement of Position.

This Responsive Statement of Position is filed by the Petitioner in response to a Statement of Position received from the following party:

The Employer

An Intervenor/Union

1a. Full Name of Party Filing Responsive Statement of Position

1c. Business Phone

1d. Cell No.

1e. Fax No.

1f. E-Mail Address

1b. Address (Street and Number, City, State, and ZIP Code)

2. Identify all issues raised in the other party's Statement of Position that you dispute and describe the basis of your dispute:

a. EMPLOYER NAME/IDENTITY [Box 1a of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

b. JURISDICTION [Box 2 of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

c. APPROPRIATENESS OF UNIT [Boxes 3, 3a and 3b of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

d. INDIVIDUAL ELIGIBILITY [Box 4 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

e. BARS TO ELECTION [Box 5 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

f. ALL OTHER ISSUES [Box 6 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

g. ELECTION DETAILS [Boxes 8a, 8b, 8c, 8d, 8e, 8f, and 8g of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

Full Name and Title of Authorized Representative

Signature of Authorized Representative

Date

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

Please fill all necessary fields on the form PRIOR to digitally signing. To make changes after the form has been signed, right-click on the signature field and click "clear signature." Once complete, please sign the form.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 19
915 2nd Ave Ste 2948
Seattle, WA 98174-1006

Agency Website: www.nlrb.gov
Telephone: (206)220-6300
Fax: (206)220-6305



Download
NLRB
Mobile App

December 21, 2021

URGENT

rminter@pjbwu.org
(215)575-9065

Richard A. Minter, Organizing Director
Workers United
22 South 22nd Street
Philadelphia, PA 19103-3005

Re: Starbucks Corporation
Case 19-RC-287954

Dear Mr. Minter:

The enclosed petition that you filed with the National Labor Relations Board (NLRB) has been assigned the above case number. This letter tells you how to contact the Board agent who will be handling this matter; explains your obligation to provide the originals of the showing of interest and the requirement that you complete and serve a Responsive Statement of Position form in response to each timely filed and served Statement(s) of Position; notifies you of a hearing; describes the employer's obligation to post and distribute a Notice of Petition for Election, complete a Statement of Position and provide a voter list; requests that you provide certain information; notifies you of your right to be represented; and discusses some of our procedures including how to submit documents to the NLRB.

Investigator: This petition will be investigated by Field Attorney SARAH K. BURKE whose telephone number is (206)220-6291. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. The Board agent may also contact you and the other party or parties to schedule a conference meeting or telephonic or video conference for some time before the close of business the day following receipt of the final Responsive Statement(s) of Position. This will give the parties sufficient time to determine if any issues can be resolved prior to hearing or if a hearing is necessary. If the agent is not available, you may contact Supervisory Field Examiner DIANNE TODD whose telephone number is (206)220-6319. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

Showing of Interest: If the Showing of Interest you provided in support of your petition was submitted electronically or by fax, the original documents which constitute the Showing of Interest containing handwritten signatures must be delivered to the Regional office within 2

business days. If the originals are not received within that time the Region will dismiss your petition.

Notice of Hearing: Enclosed is a Notice of Representation Hearing to be conducted at **9:00 A.M. on Wednesday, January 12, 2022 at Video Conferencing Hearing-Zoom, , ,** if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the regional director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, we will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party showing good cause, the regional director may postpone the hearing. A party desiring a postponement should make the request to the regional director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Posting and Distribution of Notice: The Employer must post the enclosed Notice of Petition for Election by December 29, 2021 in conspicuous places, including all places where notices to employees are customarily posted. If it customarily communicates electronically with its employees in the petitioned-for unit, it must also distribute the notice electronically to them. The Employer must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Failure to post or distribute the notice may be grounds for setting aside the election if proper and timely objections are filed.

Statement of Position: In accordance with Section 102.63(b) of the Board's Rules, the Employer is required to complete the enclosed Statement of Position form, have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition by **noon Pacific Time on January 4, 2022 2022-01-04**. The Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the Employer contends that the proposed unit is inappropriate, it must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The Employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit.

Required Responsive Statement of Position (RSOP): In accordance with Section 102.63(b) of the Board's Rules, following timely filing and service of a Statement of Position, the petitioner is required to complete the enclosed Responsive Statement of Position form addressing issues raised in any Statement(s) of Position. The petitioner must file a complete, signed RSOP in response to all other parties' timely filed and served Statement of Position, with all required attachments, with this office and serve it on all parties named in the petition such that it is received by them by **noon Pacific Time on January 7, 2022**. This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike**

other e-Filed documents, will not be timely if filed on the due date but after noon Pacific Time. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent named above.

Failure to Supply Information: Failure to supply the information requested by the RSOP form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Voter List: If an election is held in this matter, the Employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names and addresses of all eligible voters, including their shifts, job classifications, work locations, and other contact information including available personal email addresses and available personal home and cellular telephone numbers. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. The list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 days after the date when the Employer must file the voter list with the Regional Office. However, a petitioner and/or union entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483, which is available on the NLRB's website or

from an NLRB office. A waiver will not be effective unless all parties who are entitled to the voter list agree to waive the same number of days.

Information Needed Now: Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) The correct name of the Union as stated in its constitution or bylaws.
- (b) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any employees in the petitioned-for unit.
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.
- (d) The name and contact information for any other labor organization (union) claiming to represent or have an interest in any of the employees in the petitioned-for unit and for any employer who may be a joint employer of the employees in the proposed unit. Failure to disclose the existence of an interested party may delay the processing of the petition.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before the NLRB. In view of our policy of processing these cases expeditiously, if you wish to be represented, you should obtain representation promptly. Your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any “inside knowledge” or favored relationship with the NLRB. Their knowledge regarding this matter was obtained only through access to information that must be made available to any member of the public under the Freedom of Information Act.

Procedures: Pursuant to Section 102.5 of the Board’s Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency’s web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determinations solely based on the documents and evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the petition.

Information about the NLRB and our customer service standards is available on our website, www.nlr.gov, or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Ronald K. Hooks". The signature is written in a cursive, flowing style.

RONALD K. HOOKS
Regional Director

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)
6. Responsive Statement of Position (Form 506)

cc: Ian Hayes, Attorney
Creighton, Johnsen & Giroux
1103 Delaware Avenue
Buffalo, NY 14209

al



National Labor Relations Board



NOTICE OF PETITION FOR ELECTION

Included: All full-time and regular part-time Baristas, Shift Supervisors, Asst. Store Managers.
Excluded: Store Managers; office clericals, guards, and supervisors as defined by the Act.

YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

IF AN ELECTION IS HELD, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to www.nlr.gov or contact the NLRB at (206)220-6300.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.



National Labor Relations Board





UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19



STARBUCKS CORPORATION Employer and WORKERS UNITED Petitioner	Case 19-RC-287954
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NOTICE OF REPRESENTATION HEARING

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

IT IS HEREBY ORDERED that, pursuant to Sections 3(b) and 9(c) of the Act, a video hearing in the above-entitled matter is scheduled for **Wednesday, January 12, 2022 at 9:00 a.m. PT**. The video hearing will continue on consecutive days thereafter until concluded. At the hearing, the parties will have the right to appear by video and give testimony. The information necessary to participate in the video hearing will be provided to the parties prior to the hearing by the Hearing Officer.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, Starbucks Corporation must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that it is received by them by no later than **noon** Pacific time on January 04, 2022. Following timely filing and service of a Statement of Position by Starbucks Corporation, the Petitioner must complete its Responsive Statement of Position(s) responding to the issues raised in the Employer's and/or Union's Statement of Position and file them and all attachments with the Regional Director and serve them on the parties named in the petition such they are received by them no later than **noon** Pacific on January 07, 2022.

Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website (www.nlrb.gov), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden. Documents filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#)

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon** Pacific on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

Dated: December 21, 2021

Ronald K. Hooks

RONALD K. HOOKS
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 19
915 2nd Ave Ste 2948
Seattle, WA 98174-1006

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

Starbucks Corporation Employer and Workers United Petitioner	Case 19-RC-287954
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AFFIDAVIT OF SERVICE OF: Petition dated December 20, 2021, Notice of Representation Hearing dated December 21, 2021, Description of Procedures in Certification and Decertification Cases (Form NLRB-4812), Notice of Petition for Election, and Statement of Position Form (Form NLRB-505).

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on December 21, 2021, I served the above documents by electronic mail and regular mail upon the following persons, addressed to them at the following addresses:

Kevin Johnson, President and CEO
Starbucks Corporation
2401 Utah Avenue South
Suite 800
Seattle, WA 98134-1435
kevin.johnson@starbucks.com

Johnna Turvin, District Manager
Starbucks Corporation
Phone: (503) 260-6503
Email: jturvin@starbucks.com

Starbucks Corporation
101 Broadway E
Seattle, WA 98102
Phone: (206) 318-2212

Ian Hayes, Attorney
Creighton, Johnsen & Giroux
1103 Delaware Avenue
Buffalo, NY 14209
ihayes@cpjglaborlaw.com
Fax: (716)854-0004

Richard A. Minter, Organizing Director
Workers United
22 South 22nd Street
Philadelphia, PA 19103-3005
rminter@pjbwu.org
Fax: (215)575-9065

December 21, 2021
Date

Dennis Snook, Designated Agent of NLRB
Name

/s/ Annette S. La
Signature

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF REPRESENTATION CASE PROCEDURES
IN CERTIFICATION AND DECERTIFICATION CASES**

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

Right to be Represented – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at www.nlr.gov or forward it to the NLRB Regional Office handling the petition as soon as possible.

Filing and Service of Petition – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

Notice of Hearing – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews the petition, certificate of service, and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 14 business days (excluding weekends and federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position and the Responsive Statement of Position(s). Included with the Notice of Representation Hearing are the following: (1) copy of the petition, (2) this form, (3) Statement of Position for non-petitioning parties, (4) petitioner's Responsive Statement of Position, (5) Notice of Petition for Election, and (6) letter advising how to contact the Board agent who will be handling the case and discussing those documents.

Hearing Postponement: Requests to postpone the hearing are not routinely granted, but the regional director may postpone the hearing for good cause. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request must be filed electronically ("E-Filed") on the Agency's website (www.nlr.gov) by following the instructions on the website. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Statement of Position Form and List(s) of Employees – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. In an **RC** or **RD** case, as part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional

form for the list is provided on the NLRB website at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon 8 business days from the issuance of the Notice of Hearing. The regional director may postpone the due date for filing and serving the Statement of Position for good cause. The Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Responsive Statement of Position – Petitioner's Responsive Statement(s) of Position solicits a response to the Statement(s) of Position filed by the other parties and further facilitates entry into election agreements or streamlines the preelection hearing. A petitioner must file a Responsive Statement of Position in response to each party's Statement of Position addressing each issue in each Statement of Position(s), if desired. In the case of an RM petition, the employer-petitioner must also provide commerce information and file and serve a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. Ordinarily, the Responsive Statement of Position must be electronically filed with the Regional Office and served on the other parties such that it is received by noon 3 business days prior to the hearing. The regional director may postpone the due date for filing and serving the Responsive Statement of Position for good cause. The Responsive Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Responsive Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Responsive Statement of Position due date. If a party wishes to request both a postponement of the hearing and a Postponement of the Responsive Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Posting and Distribution of Notice of Petition for Election – Within 5 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically to the employees in the petitioned-for unit if the employer customarily communicates with these employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

Election Agreements – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

Hearing Cancellation Based on Agreement of the Parties – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

Hearing – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

Purpose of Hearing: The primary purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit

appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative.

Issues at Hearing: Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; seasonal operation; potential mixed guard/non-guard unit; and eligibility formulas. At the hearing, the timely filed Statement of Position and Responsive Statement of Position(s) will be received into evidence. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

Preclusion: At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or Responsive Statement of Position(s) or to place in dispute in timely response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Conduct of Hearing: If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have disabilities falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

Official Record: An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made at the hearing will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

Motions and Objections: All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

Election Details: Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

Oral Argument and Briefs: Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be due within 5 business days of the close of the hearing. The hearing officer may allow up to 10 additional business days for such briefs prior to the close of hearing and for good cause. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. Briefs including electronic documents, filed with the Regional Director must be formatted as double-spaced in an 8½ by 11 inch format and must be e-filed through the Board's website, www.nlr.gov.

Regional Director Decision - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 10 business days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

Voter List – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge. The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction. To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction of elections unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

Waiver of Time to Use Voter List – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 calendar days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

Election – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

Withdrawal or Dismissal – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A STATEMENT OF POSITION FORM

Completing and Filing this Form: The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must EFile your Statement of Position at www.nlrb.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

Note: Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7.

Required Lists: The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

Consequences of Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
STATEMENT OF POSITION

DO NOT WRITE IN THIS SPACE

Case No.

19-RC-287954

Date Filed

December 20, 2021

INSTRUCTIONS: Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

Note: Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position		1c. Business Phone:	1e. Fax No.:
1b. Address (Street and number, city, state, and ZIP code)		1d. Cell No.:	1f. e-Mail Address
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b.)			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.)			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.			
Added		Excluded	
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx . (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be <i>added</i> to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be <i>excluded</i> from the proposed unit to make it an appropriate unit. (Attachment D)			
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s)	8c. Time(s)	8d. Location(s)	
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
9. Representative who will accept service of all papers for purposes of the representation proceeding			
9a. Full name and title of authorized representative	9b. Signature of authorized representative		9c. Date
9d. Address (Street and number, city, state, and ZIP code)			9e. e-Mail Address
9f. Business Phone No.:		9g. Fax No.	9h. Cell No.

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

Starbucks Corporation

CASE NUMBER

19-RC-287954

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES _____)

YES

NO

A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$ _____B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____H. **Gross Revenues** from all sales or performance of services (Check the largest amount):☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.

I. Did you begin operations within the last 12 months? If yes, specify date: _____

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A RESPONSIVE STATEMENT OF POSITION FORM

Completing and Filing this Form: For **RC and RD petitions**, the Petitioner is required to complete this form in response to each timely filed and served Statement of Position filed by another party. For **RM petitions**, the Employer-Petitioner must complete a Responsive Statement of Position form and submit the list described below. In accordance with Section 102.63(b) of the Board's Rules, if you are required to complete the form, you must have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in another party's Statement of Position, such that it is received no later than noon three business days before the date of the hearing. A separate form must be completed for each timely filed and properly served Statement of Position you receive. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must E-File your Responsive Statement of Position at www.NLRB.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed. Note that if you are completing this form as a PDF downloaded from www.NLRB.gov, the form will lock upon signature and no further editing may be made.**

Required List: In addition to responding to the issues raised in another party's Statement of Position, if any, the Employer-Petitioner in an RM case is required to file and serve on the parties a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. This list must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the list in the required form, the list must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

Consequences of Failure to Submit a Responsive Statement of Position: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
RESPONSIVE STATEMENT OF POSITION – RC, RD or RM PETITION

DO NOT WRITE IN THIS SPACE

Case No.
19-RC-287954

Date Filed
December 20, 2021

INSTRUCTIONS: If a party has submitted and served on you a timely Statement of Position to an RC, RD or RM petition, the Petitioner must submit this Responsive Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and any attachments on each party named in the petition in this case such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner. The Petitioner-Employer in a RM case is required to file this Responsive Statement of Position and include an appropriate employee list without regard to whether another party has filed a Statement of Position.

This Responsive Statement of Position is filed by the Petitioner in response to a Statement of Position received from the following party:

The Employer

An Intervenor/Union

1a. Full Name of Party Filing Responsive Statement of Position

1c. Business Phone

1d. Cell No.

1e. Fax No.

1f. E-Mail Address

1b. Address (Street and Number, City, State, and ZIP Code)

2. Identify all issues raised in the other party's Statement of Position that you dispute and describe the basis of your dispute:

a. EMPLOYER NAME/IDENTITY [Box 1a of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

b. JURISDICTION [Box 2 of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

c. APPROPRIATENESS OF UNIT [Boxes 3, 3a and 3b of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

d. INDIVIDUAL ELIGIBILITY [Box 4 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

e. BARS TO ELECTION [Box 5 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

f. ALL OTHER ISSUES [Box 6 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

g. ELECTION DETAILS [Boxes 8a, 8b, 8c, 8d, 8e, 8f, and 8g of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

Full Name and Title of Authorized Representative

Signature of Authorized Representative

Date

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT
Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

Please fill all necessary fields on the form PRIOR to digitally signing. To make changes after the form has been signed, right-click on the signature field and click "clear signature." Once complete, please sign the form.

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Starbucks Corporation
and
Creighton, Johnsen & Giroux

CASE 19-RC-287954

Starbucks Corporation

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Workers United


IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

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DATE: Tuesday, December 21, 2021 4:14 PM Pacific Standard Time	

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Starbucks Corporation
and
Barnard Iglitzin & Lavitt, LLP

CASE 19-RC-287954

Starbucks Corporation

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Workers United

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

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Michael White	
SIGNATURE:	_____
(Please sign in ink.)	
DATE:	Tuesday, January 4, 2022 12:46 PM Pacific Standard Time

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NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Workers United
and
Starbucks Corporation

CASE 19-RC-287954

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Starbucks Corporation

IN THE ABOVE-CAPTIONED MATTER.


All communication that the Region sends or receives in this matter regarding Starbucks Corporation are to be directed to the attention of Ryan Hammond and Jeff Dilger.

CHECK THE APPROPRIATE BOX(ES) BELOW:

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☐ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

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**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19**

STARBUCKS CORPORATION

Employer

and

Case 19-RC-287954

WORKERS UNITED

Petitioner

ORDER DENYING EMPLOYER REQUEST TO POSTPONE HEARING

On December 29, 2021, the Employer requested to postpone the hearing scheduled for Wednesday, January 12, 2022 to January 19, 2022. The Petitioner opposed the request.

After due consideration of the Employer's request for a postponement of the hearing and the Petitioner's opposition, I hereby deny the Employer's request to postpone the hearing.

IT IS HEREBY ORDERED the hearing set for January 12, 2022 will be held as scheduled. If necessary, the hearing will continue on consecutive days thereafter until concluded.

DATED: December 30, 2021



RONALD K. HOOKS
Regional Director, Region 19
National Labor Relations Board
Seattle, Washington 98174

CERTIFICATE OF SERVICE

I hereby certify that on the date noted below, I electronically filed the Union's Responsive Statement of Position in Case No. 19-RC-287954 with the National Labor Relations Board using the NLRB E-Filing system and served the parties in the manner indicated below before the hour of 12:00 p.m.PST.

PARTY/COUNSEL	DELIVERY INSTRUCTIONS
Ryan Hammond rhammond@littler.com Jeffrey Dilger jdilger@littler.com	<input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> U.S. Mail <input type="checkbox"/> E-Service

DATED this 7th day of January, 2022 at Seattle, Washington.



Esmeralda Valenzuela, Paralegal

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19

STARBUCKS CORPORATION, INC.

Employer

Case 19-RC-287954

and

WORKERS UNITED

Petitioner

**ORDER REFERRING PETITION TO REVOKE
SUBPOENA DUCES TECUM TO HEARING OFFICER**

A Petition to Revoke Subpoena Duces Tecum B-1-1ELJ7V3 having been filed with the Regional Director on January 10, 2022 by Counsel for the Employer, Starbucks Corporation, Inc.

IT IS HEREBY ORDERED that the Petition to Revoke Subpoena Duces Tecum be, and hereby is, referred for ruling to the designated Hearing Officer. The hearing is scheduled for January 12, 2022 at 9:00 a.m. PT.

DATED at Seattle, Washington, on the 11th day of January 2022.

Ronald K. Hooks

Ronald K. Hooks, Regional Director
National Labor Relations Board Region 19
2948 Jackson Federal Bldg., 915 Second Ave
Seattle, WA 98174

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19

STARBUCKS CORPORATION, INC.

Employer

Case 19-RC-287954

and

WORKERS UNITED

Petitioner

**ORDER REFERRING PETITION TO REVOKE
SUBPOENA DUCES TECUM TO HEARING OFFICER**

On January 10, 2022, Counsel for the Employer filed a Petition to Revoke Subpoena Duces Tecum B-1-1ELJ7V3. After due consideration, I have determined not to make a ruling on the Employer's Petition at this time and, instead, to issue the following directive:

IT IS HEREBY ORDERED that the Petition to Revoke Subpoena Duces Tecum be, and hereby is, referred for ruling to the designated Hearing Officer. The hearing is scheduled for January 12, 2022 at 9:00 a.m. PT.

DATED at Seattle, Washington, on the 11th day of January 2022.

Ronald K. Hooks

Ronald K. Hooks, Regional Director
National Labor Relations Board Region 19
2948 Jackson Federal Bldg., 915 Second Ave
Seattle, WA 98174

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19**

STARBUCKS CORPORATION

Employer

and

Case 19-RC-287954

WORKERS UNITED

Petitioner

**ORDER GRANTING EXTENSION OF TIME
TO FILE BRIEFS**

Counsel for the Petitioner and Counsel for the Employer jointly filed a Motion Requesting an Extension of Time to File Post-Hearing Briefs until Monday, January 31, 2022.

Upon good cause shown, it is hereby ORDERED that the time for filing briefs in the above captioned matter is extended to the close of business, Monday, January 31, 2022.

Dated at Seattle, Washington, this 27th day of January 2022.

Ronald K. Hooks

RONALD K. HOOKS, REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 19
915 2ND AVE STE 2948
SEATTLE, WA 98174-1006

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19

STARBUCKS CORPORATION

Case No. 19-RC-287954

Employer,

and

WORKERS UNITED,

Petitioner.

PETITIONER'S POST-HEARING BRIEF

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PRELIMINARY STATEMENT

The question before the Regional Director is whether the Starbucks Corporation (hereinafter “Employer”) has successfully rebutted the National Labor Relation Board’s presumption that a single-store unit should apply to the petition filed by Workers United (hereinafter “Union”) at the Broadway and Denny Way Starbucks Store (hereinafter “Store 304”). The Employer has failed to rebut the presumption.

The two most critical factors under the law strongly support the single-store presumption remaining in place: the store manager for Store 304 exercises all meaningful control over daily operations and labor relations, and employee interchange is infrequent and always voluntary. The remaining factors under the law also favor single-store units. The Employer relies on generalized statements, inaccurate data, and faulty expert analysis to allege that District 114, which currently includes Store 304 and nine other stores, is the smallest appropriate bargaining unit. The evidence it presents is not sufficient, however, to overcome the law’s strong preference for single-store units. By contrast, the Union relies on the testimony of employees who work in the stores and numerous statements by the store manager for Store 304, Store 304’s district manager, and the Employer’s own documents that support a single-store unit.

For these reasons, as described in more detail below, the Union respectfully requests that the Regional Director issue a Decision and Direction of Election to hold a mail ballot election at Store 304 as soon as practicable.

PROCEDURAL BACKGROUND

On December 20, 2021, Workers United, SEIU, filed a petition for representation seeking to represent all full-time and regular part-time baristas, shift supervisors, and assistant store managers (if any) employed at Starbucks Store 304. Store 304 sits at the intersection of

Broadway and Denny Way in Seattle's Capitol Hill neighborhood. The store has 15 current employees, including the store manager.

Store 304 falls within the Employer's District 114, which also contains nine other Starbucks stores. Pam Mariscal is the store manager for Store 304. Johnna Turvin is the district manager for District 114. Both Ms. Mariscal and Ms. Turvin testified at hearing. The Union introduced testimony from two members of the petitioned-for unit: Sydney Durkin, a shift supervisor, and Rachel Ybarra, a barista. Both parties also introduced documentary evidence as exhibits.

ARGUMENT AND ANALYSIS

I. A Single-Store Unit Is the Appropriate Bargaining Unit for the Petitioned-for Store.

The Board presumes that a single store groups together employees with a substantial mutual interest. A single-plant unit is presumptively appropriate because Congress expressly included a plant unit as one type of unit appropriate for collective bargaining. *Dixie Belle Mills Inc.*, 139 NLRB 629, 631 (citing 29 U.S.C. § 159(b); *Temco Aircraft Corp.*, 121 NLRB 1085, 1088 (1958)). The Board extended this single-plant unit presumption to single stores within in retail chain over 50 years ago. *Haag Drug Co.*, 169 NLRB 877, 877 (1968).

Moreover, "there is nothing in the statute that requires the unit for bargaining be the *only* appropriate unit, or the *ultimate* unit, or the most appropriate unit; the Act only requires that the unit be 'appropriate.'" *Foodland of Ravenswood*, 323 NLRB 665, 666 (1997) (emphasis original) (quoting *Morand Bros. Beverage Co.*, 91 NLRB 409, 418 (1950)). As a result, "the unit sought by the petitioner is always a relevant consideration." *Id.* (citing *Overnite Transportation Co.*, 322 NLRB 723, 725 (1996); *Lundy Packing Co.*, 314 NLRB 1042, 1043 (1994)).

The Union's petitioned-for unit is a single location, which the Board and the Act recognize as a presumptively appropriate unit. Even further, two NLRB regions have issued three decisions and directions of elections agreeing that the single-store unit of Starbucks employees is an appropriate unit, of which the Board has upheld the sole decision that the Employer has challenged. *Starbucks Corp.*, 03-RC-282115, 03-RC-282127, 03-RC282139 (Region 3 Decision and Direction of Election, Oct. 28, 2021) (hereinafter referred to as *Buffalo I D&DE*), *aff'd* in part, *Starbucks Corp.*, 03-RC-282115, 03-RC-282127, 03-RC282139, 2021 WL 5848184 at *1 (Board Corrected Order, Dec. 7, 2021) (hereinafter referred to as *Buffalo I CO*); *Starbucks Corp.*, 28-RC-286556 (Region 28 Decision and Direction of Election, Jan. 7, 2022) (hereinafter referred to as *Mesa D&DE*); *Starbucks Corp.*, 03-RC-285929, 03-RC-285986, 03-RC-285989 (Region 3 Decision and Direction Election, Jan. 14, 2022) (hereinafter referred to as *Buffalo II D&DE*). Consistent with the single-store presumption, the Petitioner's proposed bargaining unit is appropriate, and the Region should issue a decision that directs an election for the proposed unit.

II. The Employer Has Not Met Its Heavy Burden to Overcome the Single-Store Presumption.

The Employer can overcome the single-store presumption by showing its stores are integrated to the point they don't have a separate identity. The Employer failed to make that showing here.

An employer that seeks to overcome the single-store bargaining unit presumption bears a "heavy burden." *Buffalo I CO*, 2021 WL 5848184 at *1 fn. 2 (citing *California Pacific Medical Center*, 357 NLRB 197, 200 (2011)). "To rebut this presumption, the Employer 'must demonstrate integration so substantial as to negate the separate identity' of the single store units." *Id.* (quoting *California Pacific Medical Center*, 357 NLRB at 200). "The mere fact that

the petitioned-for employees may share some community of interest with excluded employees does not serve to rebut the presumption.” *Buffalo I CO*, 2021 WL 5848184 at *1 fn. 2. Region 19 has acknowledged that the Employer bears the burden of rebutting the single facility presumption. Tr. 14:19-14:24.

The Board looks to several factors to determine whether an employer has rebutted the single-facility presumption: (1) central control over daily operations and labor relations, including the extent of local autonomy; (2) similarity of employee skills, functions, and working conditions; (3) the degree of employee interchange; (4) the distance between the locations; and (5) bargaining history if any exists. *In re Trane*, 339 NLRB 866, 868 (2003) (citing *J & L Plate, Inc.*, 310 NLRB 429, 429 (1993); *R & D Trucking, Inc.*, 327 NLRB 531, 532 (1999)). The Board applies this analysis and factors to retail and food chains. *Red Lobster*, 300 NLRB 908, 912 (1990).

The following discussion first addresses that while the Employer may strive for chain-wide uniformity, but its operational goals do not overcome the single-store presumption. Then, the discussion reviews each of the factors and demonstrates how the Employer failed to offer evidence to overcome the single-store presumption because: (1) Store 304’s store manager controls the daily operations and labor relations and has autonomy in decision making; (2) even though the Employer intends to offer a consistent experience with similar employee skills, functions, and working conditions, each store has meaningful differences from the other stores in District 114; (3) employee interchange is minimal, any interchange is voluntary, it is not numerically or psychologically significant, and it is not limited to the Employer’s proposed bargaining unit; (4) Seattle’s unique geography and urban environment creates meaningful distances between store locations; and (5) the absence of bargaining history supports the single-

facility presumption. As a result, the Union requests that the Regional Director find the Union's proposed single-store unit is the appropriate bargaining unit.

A. Starbucks's Chainwide Uniformity Does Not Integrate Store 304 With Other Stores in District 114.

The Employer operates a uniform, nationwide retail chain, but that is not enough to overcome the single-store presumption. "[C]hainwide uniformity may be advantageous to the employer administratively," but "it is not a sufficient reason in itself for denying the right of a separate homogenous group of employees, possessing a clear community of interest, to express their wishes concerning collective representation." *Haag Drug Co.*, 169 NLRB at 878. Moreover, even when an employer provides evidence of centralized operations, this factor "is of little significance in determining the question." *Id.* at 879.

The Employer has offered evidence of its centralized retail operations in prior cases. The parties stipulated that the Regional Director can review, reference, and directly rely upon the evidence of prior hearings. Tr. 426:4-429:4, 644:22-645:7; *See* Board Exh. 5. The evidence of the Employer's centralized retail operations did not convince the regions that have issued decisions that a single-store location was inappropriate. *Buffalo I D&DE* at 16; *Mesa D&DE* at 13; *Buffalo II D&DE* at 22 (all three cases state "the stores' standardization is outweighed by other evidence of local autonomy in operations and labor relations.>"). Likewise, the Employer's centralized operations are outweighed here by the evidence that Store 304 has local autonomy in operations and labor relations as discussed in the remaining factors.

B. The Store 304 Store Manager Exercises All Meaningful and Relevant Control Over Daily Operations and Labor Relations.

The Employer gives the store manager for Store 304 the authority to control daily operations and labor relations, and the store manager routinely exercises her authority. Region 28 just recently reaffirmed that a single facility unit consisting of one Starbucks store is appropriate

when the facility “retained a substantial degree of autonomy, even under “substantial centralization of authority and considerable product integration between facilities.” *Mesa D&DE* at 13 (citing *The Black and Decker Mfg. Co.*, 147 NLRB 825, 828 (1964)). Similarly, the Board just recently explained that it agreed with the Region 3 Acting Regional Director that Starbucks “did not meet its heavy burden” because the Union adduced evidence of the following:

The employees perform their day-to-day work under the immediate supervision of a local store manager who is involved in rating employee performance, or in performing a significant portion of the hiring and firing of the employees, and is personally involved with the daily matters which make up their grievances and routine problems.

Buffalo I CO, 2021 WL 5848184 at *1 fn. 2 (citing *Haag Drug*, 169 NLRB at 878).

Similarly, In *Bud’s Thrift-T-Wise*, the Board upheld the propriety of a single unit because “the individual store managers exercise considerable authority in personnel matters.” 236 NLRB 1203, 1204 (1978). It did so even though “the Employer’s president establishes labor relations policies and employee benefits[.]” *Id.* Instead, the *Bud’s Thrift-T-Wise* “record discloses that the individual store managers also have and exercise substantial authority and play a direct role in the implementation of labor relations policies affecting the employees in their respective stores.” *Id.* The Board found the following persuasive in finding the single-store bargaining unit appropriate:

The facts that store managers interview prospective employees for hire and either directly hire part-time employees or make effective recommendations with respect thereto; that they have and exercise the authority to discharge employees or effectively recommend such actions; and that they may suspend employees for disciplinary reasons, grant time off, schedule employee shifts, vacations, and overtime, adjust employee grievances, evaluate employees for purposes of wage increases, participate in the determination as to the promotion of employees from part-time to full-time status, and advise the Employer concerning staffing needs which may involve employee transfers.

Id.

Under the Board's precedent, a single-store unit is appropriate here because, as the Employer states in its employee manual that it terms the Partner Guide, "[t]he store manager is ultimately in charge of all store operations and directs the work of the . . . shift supervisors and baristas." P. Exh. 2 at 15. The Employer's manual goes on to state that the "store manager is responsible for personnel decisions, scheduling, payroll, and fiscal decisions." *Id.* The Employer's manual sums up the employees' relationship with their store manager by stating, "[t]he most important working relationship a partner will have at Starbucks is the one with the manager, who is there for support." *Id.* at 45. The Employer's own statements to its employees show that its store managers are the individuals that control daily operations and labor relations. This statement is consistent with the numerous ways that the store manager for Store 304 exercises daily control over the individual factors that consist of the daily operations and labor relations in the store discussed below.

1. Hiring

The Employer gives store managers the sole authority to hire baristas, and it offered no evidence to the contrary. The Employer's documents provide a detailed explanation of the authority and discretion that the Employer grants store managers. The Employer introduced exhibits that show guidelines for how store managers should conduct the interviews. Emp. Exh. 201; Emp. Exh. 202. These exhibits show that store managers interviewing baristas have a great deal of agency, contrary to the generalized testimony of the Employer witnesses. These documents contain numerous statements that the store manager should use their own experience and authority to carry out the interview, including references to:

- To share your experience, and build a connection with the candidate. Offer the candidate a beverage or share a coffee press of your favorite coffee and describe what makes it your favorite!;

- Discuss the Starbucks Experience with the candidate. Share how creating Best Moments come to life in your store.; and
- Describe a day in the life of a Barista.

Emp. Exh. 201 at 1. The Employer exhibit for interviewing shift supervisors has parallel language throughout, and the same points apply to this. Emp. Exh. 202 at 1. Store managers are not simply following a script while conducting interviews. While they follow a general structure established by the Employer, they are still exercising independent thought and experience in doing interviews.

The store manager for Store 304, Ms. Mariscal, provided an overview of how she runs the candidate recruitment process. Ms. Mariscal stated that when she has a vacancy in her store, she starts the “recruiting talent process.” Tr. 45:6-20. She estimates that she conducts interviews on her own one-third of the time, and another one-third with a peer store manager. Tr. 50:10-15. Even when Ms. Mariscal does not interview the candidate, she often gives preference to the other candidates she did interview. Tr. 51:1-3. In any event, Ms. Mariscal said the “ultimate decision” to hire a candidate is “mine.” Tr. 50:3-7. Once a candidate has been selected for hire, Ms. Mariscal will “push them through the system . . . and . . . setup a training plan.” Tr. 48:9-11. Importantly, the district manager for District 114, Ms. Turvin, is not involved in deciding whether to select a person to interview for the position of barista or shift supervisor. Tr. 341:16-23.

Rachel Ybarra’s experience sheds light on the Employer’s hiring process. After Ms. Ybarra applied through Indeed.com, Ms. Mariscal emailed Ms. Ybarra to schedule an interview. Tr. 605:10-12, 20-22. P. Exh. 22 at 3. After the interview, Ms. Mariscal offered Ms. Ybarra a job as a barista. P. Exh. 22 at 1-2; P. Exh 23; Tr. 608:24-611:14.

2. Discipline and Termination

The store manager for Store 304 regularly exercises her authority to discipline employees and effectively recommends harsher discipline. The Union's witnesses testified about Ms. Mariscal's ability to discipline Store 304 employees. Sydney Durkin, a shift supervisor in Store 304, stated that Ms. Mariscal has coached or counseled her in formal and informal settings on multiple occasions. Tr. 568:2-16. Ms. Durkin cannot decline to speak with Ms. Mariscal because Ms. Mariscal is her direct supervisor. Tr. 568:17-21. Moreover, Ms. Turvin has never been present for Ms. Mariscal's coaching or counseling of Ms. Durkin. Similarly, Ms. Ybarra stated that Ms. Mariscal is the primary person that provides her coaching and counseling. Tr. 618:24-619:2. Ms. Ybarra also stated that Ms. Mariscal gives her formal and informal coaching. Tr. 619:3-13. Ms. Mariscal will conduct formal coaching in the back office of Store 304. Tr. 619:14-18.

Ms. Mariscal discussed her use of the Employer's Virtual Coach tool related to employee discipline. Virtual Coach provides recommendations on discipline; the store manager has the discretion to deviate from the tool's recommendations. Tr. 80:3-11. Emp. Exh. 205. The Virtual Coach document in the record clarifies that it is an aid to a store manager and not definitive. It states, "the Partner Relations Virtual Coach is intended to complement, not replace, your active assessment and judgment and guidance provided by your next-level leader, partner resources, ethics and compliance or legal counsel." Emp. Exh 205 at 3, 4. The tool also contains discretionary language. For example, if an employee is tardy, the tool asks the store manager whether there were "any extenuating circumstances." *Id.* at 5. The tool does not define extenuating circumstances, leaving the store manager to determine whether an employee's reason for being late qualifies as an extenuating circumstance in the store manager's opinion. *See id.*

Ms. Mariscal admitted she uses her discretion to determine when a situation warrants consulting with the Virtual Coach tool. For example, Ms. Mariscal said she would not consult Virtual Coach for employee disputes. Tr. 78:4-7, 228:25-230:13. Another example of Ms. Mariscal's discretion to deviate from the tool's recommendations is when she encounters a "complex issue," such as when employees must isolate for COVID issues. Tr. 81:1-6. This removes any doubt that the Virtual Coach is a *tool* rather than a binding set of all-encompassing policies, as the employer implies.

The Employer's Corrective Action Form also gives clear indications of the role of Store Managers in administering discipline and exercising real decision-making power. The bottom of the form states: "Manager: Print two copies of this form. Give one signed copy to the partner and retain one signed copy in the store partner file." Emp. Exh. 206; Emp. Exh. 207; P. Exh. 3. Most importantly, nothing on the form mentions the District Manager. *See id.* The document also states: "Partner: The above has been discussed with me by my manager." *Id.* The form also gives guidance about the appropriate representative to address questions with corrective action: "If you disagree or have any concerns about this corrective action, you are encouraged to talk it over with the manager who is delivering it to you." *Id.* Lastly, the form includes a narrative section where the store manager describes the incident and the needed corrective action based on their own observance, discretion, and authority. *Id.*; *see* Tr. 82:6-17, 170:24-171:20.

Ms. Turvin stated that she "can be" involved in the corrective action process. Tr. 279:6-9. However, Ms. Mariscal is the face of the company to the employees at Store 304—not Ms. Turvin. Ms. Turvin provided an example that on the rare occasion she is in Store 304 performing an "observe and coach" and witnesses an issue with a barista or store employee, Ms. Mariscal is

the Employer's representative that engages in the conversation with an employee to address the issue. Tr. 321:9-322:3.

Outside of the off-chance Ms. Turvin witnesses an incident, only the most serious offenses involve the store manager's supervisor. Tr. 73:15-23. Still, the occasions where Ms. Mariscal confers with her supervisor over employee discipline are rare. Tr. 177:20-178:2. Regardless of whether Ms. Mariscal consults with Ms. Turvin, Ms. Mariscal is the individual that completes the Corrective Action Form and discusses the discipline with the employee. Tr. 173:18-24, 175:22-176:5.

When an employee resigns from Starbucks, the employee manual states that employees should give managers a two weeks' notice. P. Exh 2 at 74. If an employee resigns or the Employer terminates the employee,¹ the Employer designates the employee's manager as the recipient for all the Employer's property in possession of the employee. *Id*

Overall, Ms. Mariscal has discretion on when and how to issue employee discipline.

3. Training

The store manager of Store 304 coordinates and engages in training new employees and ongoing training of current employees. The Employer's Ops Excellence manual states that store managers that are in the "owning" stage of the development path" and "To **Achieve Results**," perform the following objectives:

- Sets partners up for success by thoughtfully scheduling training time to minimize disruption to the customer experience;
- Ensures training is consistently planned, communicated, completed and documented;
- Ensures the store has the appropriate number of certified barista trainers to support new partner training;

¹ The record lacks evidence from either party that anyone has fired a Store 304 employee.

- Tailors training plans to new partners' backgrounds and learning styles;
- Is aware of new partners' knowledge and skill gaps and can articulate a plan for continued areas of focus; and
- Leverages PPK tools and training to ensure partners are prepared prior to the start of each period.

P. Exh. 1 at 36 (emphasis original).

For new employees, Ms. Mariscal decides who will train a newly hired barista and delegates that task to a barista trainer by breaking down the Employer's Barista Basic Training Plan. Tr. 61:5-63:21; Emp. Exh. 203. Ms. Mariscal will also conduct the training of new employees herself. Tr. 64:18-20.

Ms. Mariscal also oversees continuing education. She implements the company-wide training plan and schedules the training. Tr. 61:10-13. Store managers also train shift supervisors. Tr. 68:25-69:1. Ms. Turvin states that her store managers can train their respective employees without seeking her approval first. Tr. 270:5-10. Moreover, the Employer's Partner Guide places managers as the gatekeepers to professional development. If an employee wants to become a barista trainer, the employee manual tells them to talk to their manager. P. Exh. 2 at 49. Likewise, if employees are interested in attending the "Starbucks Coffee Academy" to attend coffee courses, the employee manual directs employees to contact their manager. *Id.*

4. Promotions

Like training, the store manager for Store 304 is integral for the employer when Store 304 employees look to promote. First, the employee manual states that any employee interested in promoting should contact their store manager and district manager. P. Exh. 2 at 48. An employee must be in good standing to be eligible to promote. *Id.* at 48, 49. The employee's "manager will determine whether a partner is considered to be in 'good standing' based on performance." *Id.* at

49; *see supra*, Section II.B.5. The Employer’s definition of “good standing” includes whether the employee is “meeting the expectations of the job as determined by the manager.” *Id.*

The Employer’s witnesses discussed how the promotional process recently changed. Ms. Mariscal described how the Employer implemented its “Career Progression Program” in the summer or fall of 2021. Tr. 238:4-7. Under this new program, the store manager is still vital to the promotional process for the shift supervisor position. When Ms. Mariscal hires for the shift supervisor position, she selects which candidates will get an interview. Tr. 55:20-56:6. Once a candidate has been recommended to be hired as a shift supervisor, Ms. Mariscal said she and her district manager must agree to the transfer or hire. Tr. 57:4-11. In other words, if Ms. Mariscal disapproves of the recommendation, she has veto authority.

Yet, the record evidence shows that the new promotional program is not the lived experience at Store 304. The five shift supervisors at Store 304 were all promoted under the prior promotional standards that were in effect approximately five months ago. Tr. 152:25-153:3, 154:6-12, 155:7-12, 161:12-15, 155:1-3. Four of the shift supervisors were promoted before they worked with Ms. Mariscal. *Id.* However, Ms. Mariscal transferred one barista to Store 304 and promoted him on his arrival. Tr. 182:24-183:3. At the time, Ms. Mariscal was the ultimate decision-maker on promoting a barista to shift supervisor. Tr. 237:20-238:7. The record is devoid of evidence that any person was promoted from barista to shift manager under the new promotion regime in Store 304. Even if the Employer’s change to the promotion process is real, it was implemented only *after* the Union started organizing efforts across the country. The Region should give the new promotional system very little weight.

Ms. Mariscal also has the sole discretion of assigning an employee as a barista trainer. Barista trainers receive a bonus when the new barista completes their training. Tr. 62:7-13,

153:19-21, 408:22-409:8. The Employer's employee manual tells employees that if they are interested in becoming barista trainers, they should contact their store manager for details. P. Exh. 2 at 22. Ms. Mariscal designated all of Store 304's shift supervisors as barista trainers. Tr. 61:23-62:2. Yet, Ms. Mariscal has the choice to designate other employees as barista trainers, including baristas. Tr. 153:16-18, 239:5-7. Ms. Mariscal's sole discretion to assign individuals a position that pays a bonus shows further evidence that the store manager at Store 304 exercises all meaningful control over daily operations and labor relations.

5. Staffing, Scheduling, Approval of Time-Off, Time Tracking, and Payroll

The Employer's operations tie together scheduling, time tracking, payroll, staffing, and approval of time off; the store manager of Store 304 is the sole person that oversees, directs, and manages these activities.

The Employer tasks Ms. Mariscal with staffing and scheduling for Store 304. The Employer's "Ops Excellence Field Guide" includes a guide for store manager career development. P. Exh 1 at 35-36. The guide states the store manager's operations activities include "staffing & scheduling" and states that a store manager "ensures the right partners are in the right place, at the right time, doing the right work to serve the customer." *Id.* at 36. The guide says, "Let's talk about staffing in your store," and asks the store manager:

- How are you hiring partners for excellence in service?
- What are your hiring gaps, obstacles and plans?
- How have your most recent schedules served your customers, partners and business?
- How are you building a diverse team?

Id. The guide also tells a store manager that "To **Achieve Results**, a store manager who is in the 'owning' stage of the development path" is meeting the following objectives:

- “Has a consistent plan for attracting, sourcing and hiring” employees;
- “Is aware of and planning for future staffing needs”;
- “Completes the onboarding process to ensure new partners have a smooth start”; and
- “Schedules and builds plays to meet the needs of their customers, partners, and shareholders.”

Id. (emphasis original).

The Employer also gives store managers discretion regarding “staffing needs” in their store. P. Exh. 16; *see* Tr. 415:15-416:12, 601:25-602:20. The Employer’s “Step to Excellence” tool states, “[s]tore managers anticipate and forecast hiring needs so they can hire prior to experiencing staffing or scheduling gaps.” P. Exh. 16. Moreover, Ms. Turvin states that a store manager could choose to increase the number of employees in their store without pre-approval by their district manager. Tr. 300:17-301:14.

Additionally, Ms. Mariscal has the discretion to allow an employee to transfer into Store 304 or whether she brings on a new hire instead. Tr. 57:4-11. Existing employees wishing to transfer into Store 304 contact Ms. Mariscal to share their interest in working at the store. Tr. 157:24-159:11, 159:19-160:5, 161:12-19, 162:3-16. If Ms. Mariscal opts to transfer an existing employee into Store 304, she recommends employees be transferred into Store 304 to her district manager. Ms. Mariscal states that her supervisor has never denied Ms. Mariscal’s recommendation for an employee’s transfer. Tr. 183:12-17. Moreover, Ms. Mariscal states that she may deny an employee transfer if she does not believe the transferring employee’s schedule aligns with what Store 304 needs or if the employee’s current store manager does not recommend the employee. Tr. 231:20-232:6, 232:20-233:11. She also said she would not accept a transfer if the prospective employee did not complete the necessary training paperwork or if the

employee had received a final written warning. *Id.*, Tr. 232:7-11. When Ms. Mariscal pursues the transfer option, she coordinates the employee's transfer into Store 304, including from stores outside of District 114. Tr. 99:1-11.

The Employer's employee guide confirms Store 304's experience. To transfer, an employee "must be in good standing." P. Exh. 2 at 16; *see supra*, Section II.B.4. "Ultimately, permission for a partner transfer is at the discretion of the store manager and/or district manager." P. Exh. 2 at 16. The employee guide directs an employee to talk to their current manager to request a transfer. *Id.* It also tells an employee to work with their manager "to obtain additional information about transfers and to complete and submit the required paperwork for approval." *Id.*

Ms. Mariscal coordinates and creates the scheduling for Store 304. When an employee comes to work at Store 304, they must complete a Partner Availability Form. P. Exh. 2 at 17. "With this information and that of fellow partners, the store manager will create a weekly work schedule for the store that balances partner availability and business needs." *Id.* The Partner Availability Form directs employees to discuss their forms and schedules with the store manager:

Partner, please return this form and discuss with your store manager upon completion. Your store manager will use this information, as well as the business needs of the store, to build a schedule that balances both.

P. Exh. 5. Ms. Mariscal testified that she does go over employee availability with employees when they are in training. Tr. 149:1-7.

Furthermore, the employee manual states, "[t]he store manager posts weekly work schedules in advance so partners can plan ahead." P. Exh. 2 at 17. Ms. Mariscal stated that she builds Store 304's schedule. Tr. 100:17, 181:15-182:10, 571:19-20, *see* Tr. 619:23-24. She does so by using the Employer's tools to create a schedule, but Ms. Mariscal must manually edit the schedules. Tr. 237:10-16. For example, Ms. Mariscal stated that the Employer's timekeeping

system that generates schedules will give employees “a bunch of really random shifts.” Tr. 237:3-10. So, she will edit the schedule to make it work better for her and her employees. Tr. 237:3-16.

The Employer’s scheduling system also schedules employee breaks, yet Ms. Mariscal will move the breaks around. Tr. 241:17-242:14, *see* P. Exh. 4. Ms. Mariscal also has the discretion to schedule employees’ time away from directly serving customers. Tr. 188:25-189:19; *see* P. Exh. 4 at 1. The Employer also grants Ms. Mariscal the discretion to schedule more hours than what the Employer’s corporate side prescribes. Tr. 188:6-16.

The store manager for Store 304 also coordinates the approval of time off. When employees request vacation, they must submit the request to the store manager. P. Exh. 2 at 53. Employees must also seek approval from their store manager for other types of leave, including jury duty, bereavement leave, and military leave. *Id.* at 58. Ms. Ybarra described that Ms. Mariscal is the person at Store 304 that reviews time-off requests. Tr. 620:19-621:12. Employees log in to the Employer’s online portal to submit time-off requests. Tr. 620:11-621:3; *see* P. Exh. 10. Ms. Mariscal reviews the time-off requests and is the person that approves them. Tr. 620:24-10; P. Exh. 10.

The store manager is the exclusive person to address overtime. The employee manual states, “[o]vertime hours must be approved in advance by a manager.” P. Exh 2 at 21. A partner who fails to get approval from their store manager “may be subject to corrective action.” *Id.*

After Ms. Mariscal posts the schedules, she maintains the schedule along with Store 304 shift supervisors. If employees know that they cannot report to their shift, they must notify the store manager and find another employee to cover for them. P. Exh. 2 at 29. Employees can swap shifts among themselves, but the store manager must know of the swap. Tr. 104:2-6,

104:24. But then Ms. Mariscal stated that employees of identical classifications could swap shifts with each other and do not need the store manager's pre-approval. Tr. 211:23-212:19, 572:3-14.

If employees must call out for an unplanned reason, such as "the sudden onset of illness, injury or emergency," the employee must notify the store manager or shift supervisor if the store manager is not working. P. Exh. 2 at 29. Tr. 572:1-2, 621:20-622:9. Ms. Mariscal and the shift supervisors will attempt to fill open shifts. Tr. 100:18-24, 208:16-24, 570:19-571:7. Ms. Durkin testified that if a shift supervisor cannot fill a vacant shift, then the store manager will work to fill the shift. Tr. 596:6-21. Store 304 has a group text message chat for all store employees. P. Exh. 18, Tr. 623:11-16, 623:22-624:2. Ms. Mariscal will use the group text message to contact employees regarding open shifts and store meetings. P. Exh 18; P. Exh. 19; Tr. 624:16-625:14, 626:15-17. If Ms. Mariscal cannot fill a shift with internal employees, she uses an informal Facebook Group to seek coverage of shifts, which solicits requests to all employees within Area 10. Tr. 101:2-4, 208:13-22, 209:24-210:16. P. Exh. 17. Area 10 covers the Puget Sound and Olympic Peninsula areas. Emp. Exh. 227; Tr. 131:15-21. If an employee does want to work in Store 304 temporarily, Ms. Mariscal must approve the employee's request. Tr. 184:6-13.

Ms. Mariscal oversees time tracking and payroll. Ms. Mariscal testified that her responsibilities include editing employee hours, and submitting vacation time, sick time, catastrophe pay, and predictability pay. Tr. 112:20-22. She specifically states that she approves payroll every week. Tr. 112:23. When an employee has a clocking in or out error, employees log their time in the Punch Communication Log. Tr. 165:5-19; *see* P. Exh. 6. When an employee needs to adjust their time and writes an entry into the Punch Communications Log, Ms. Mariscal approves the change in her capacity as the store manager. Tr. 164:13-165:17. If Ms. Mariscal discovers that an employee's clock in or out error wasn't remedied in the Punch

Communications Log, Ms. Mariscal will confirm what time the employee arrived or left. *Id.* The employee guide confirms this practice; it states:

If a partner forgets to punch in or out, or makes a time recording error, the partner must immediately notify a shift supervisor, shift manager, assistant store manager, or store manager and record the time actually worked on the store's Punch Communication Log (PCL). The store manager or ASM will initial the entry to verify it (the partner will initial to verify any entries made by a manager or supervisor). The store manager will then correct the partner's time record in the timekeeping system.

P. Exh. 2 at 19.

The Employer requires neither the shift supervisors nor the store manager to notify the district manager if an employee's schedule changes. Tr. 213:17-214:2. Likewise, the Employer logs schedule changes to comply with the City of Seattle's labor regulations to ensure employees have predictable schedules. P. Exh. 7; Tr. 166:19-168:15. Ms. Mariscal must approve employee entries into the Schedule Change Log as the store manager. Tr. 168:19-25. P. Ex. 7. Additionally, when a borrowed employee comes to work at Store 304, Ms. Mariscal must log the employee into the timekeeping system. Tr. 101:12-13.

Under the evidence presented through testimony and exhibits, the Employer tasks the store manager at Store 304 with staffing the store, scheduling the store's employees, approving the employees' requests for time off, tracking the employees' time, and performing payroll duties at the store level. The district manager for District 114 does not perform any of these duties.

6. Evaluations

The store manager for Store 304 is the only person who performs direct evaluations of the employees in Store 304. As discussed in Section II.B.4, the Employer tasks the store manager with determining whether an employee is in "good standing." P. Exh. 2 at 48, *see supra*, Section II.B.4. Similarly, the Ops Excellence Manual discusses employees engaging in Performance and

Development Conversations (PDCs). Under the store manager section of the Ops Excellence Manual, the manual addresses “Leadership Activity,” which includes “Coaching for Performance & Development.” P. Exh. 1 at 38. Under this topic, this “leadership activity” “helps partners create development plans and has [sic] meaningful coaching conversations that drive performance.” *Id.* The Ops Excellence Manual further states that “To **Achieve Results**, a store manager who is in the ‘owning state’ of the development path” performs the following:

- Elevates the *Starbucks Experience* by observing interactions, providing feedback and coaching to reinforce or redirect;
- Considers a partner’s place on the **L > O > A** development path when assessing partner performance;
- Conducts meaningful development conversations and actively supports partner development plans;
- Role models personal growth through self-awareness and reflection; and
- When necessary, documents performance conversations using corrective action.

Id. (emphasis original).

Testimony supports the employee manual’s edict. Ms. Mariscal conducts the one-on-one PDCs a minimum of twice a year. Tr. 251:4-24. The employee witnesses stated that Ms. Mariscal, as the store manager, is the only person that conducts PDCs. Tr. 569:23-570:10, 619:19-20. When employees need to follow up on goals and objectives, they follow up with their store manager. Tr. 570:11-570:13, 619:21-22. Ms. Turvin claimed that she is involved in Partner Development Plans for shift supervisors but provided no specific instances of meeting with Store 304 shift supervisors. *see* Tr. 280:7-281:2. Ms. Durkin, a shift supervisor, has never had a PDC with anyone but her store manager. 570:5-10. The Employer’s documents and witness testimony confirm that the store manager for Store 304 performs evaluations of Store 304 employees.

7. Resolutions of grievances, complaints, and related issues

As with all the other factors, witness testimony and the Employer's manuals direct employees to work with their store manager on resolutions of grievances, complaints, and related issues. For example, if an employee witnesses violence, the employee manual tells them to inform their store manager, among other options. P. Exh. 2 at 40. If an employee has a conflict with another employee, and the parties cannot resolve it, the employee guide directs them to contact their store manager. *Id.* at 45-46. Ms. Durkin confirmed that she would contact her store manager to mediate a conflict she could not resolve. Tr. 569:8-13. Moreover, the employee manual tells employees that if they are experiencing or becoming aware of harassment, discrimination, retaliation, or a violation of company policy, the first person on the list to contact is their store manager. P. Exh. 2 at 26.

8. Other evidence of store managers role in labor relations

The testimony at the pre-election hearing and the parties' exhibits further detail that the store manager of Store 304 exercises all meaningful control of daily operations and labor relations. For example, the employee manual directs the employee to contact their manager if they experience an accident or incident. P. Exh. 2 at 49. Questions about the employer's dress code—ask the store manager. P. Exh. 2 at 30. Need to know where to store your personal belongings—the store manager will tell you. P. Exh 2 at 52. Need an accommodation in the workplace—talk to your manager. P. Exh. at 28. If you get sick at work, tell your manager, “who will determine whether work restrictions apply.” P. Exh. 2 at 30. If employees want to review their personnel records, they contact their manager. P. Exh. 2 at 41. It would be easy for Ms. Mariscal to access the records because Store 304 maintains records for each employee in the store. Tr. 112:2-6. The individual store records also include daily records, daily staffing reports, and employee food handler permits. Tr. 112:7-14.

Importantly, employees at Store 304 describe the store manager, Ms. Mariscal, as their manager. Tr. 567:17-22. Shift supervisors normally direct baristas, but when Ms. Mariscal is serving customers at the same time as a shift supervisor, she will direct baristas. Tr. 618:16-19. Shift supervisors report to the store manager, and the store manager directs shift supervisors. Tr. 567:23-568:1, 618:20-21.

Lastly, Ms. Mariscal schedules regular quarterly meetings for Store 304 and only Store 304. Tr. 218:8-19. Ms. Mariscal will also alert employees to a change in Store 304's hours, such as inclement weather. Tr. 626:10-15; P. Exh. 19.

C. The District Manager Plays No Meaningful Role in Daily Operations or Labor Relations.

The evidence described above confirms that store managers exercise an exclusive, or at least a sufficiently significant, role in labor relations to satisfy the Board law on point. And to pile on, the Board has established that a store's autonomy and removed supervision of a group of stores are relevant to the appropriate unit analysis.

1. Store 304 Operates with Significant Autonomy

The autonomy of individual stores is an important factor in the appropriate unit analysis. Local autonomy includes control over labor relations, recordkeeping, and lack of functional integration. *See Bud's Thrift-T-Wise*, 236 NLRB at 1204; *Eschenbach-Boysa Co.*, 268 NLRB 550, 551 (1984); *Point Pleasant Foodland*, 269 NLRB 353, 354 (1984); *Hilander Foods*, 348 NLRB 1200, 1202 (2006). Autonomy is established by who is making the "day-to-day" decisions at each store. *See Hilander Foods*, 348 NLRB at 1202 ("the Employer's facilities have strong local autonomy The record shows that the day-to-day decisions at Roscoe and each other facility are handled, in large part, separately within each store by the store manager"). The most important factor to establish local autonomy is control over labor relations. *See UPS*

Ground Freight, Inc. v. NLRB, 921 F.3d 251, 254 (D.C. Cir. 2019) (“the Acting Regional Director reasonably relied on the significant evidence of local autonomy over labor relations matters”).

Starbucks store managers exercise exclusive or substantial authority in all meaningful labor relations matters, including hiring, firing, discipline, on-boarding, training, promotions, scheduling, payroll, time-off requests, transfers, evaluations, and handling employee grievances. *See supra*, Section II.B. The extent of store manager control over personnel alone is enough to establish local autonomy of individual stores. *See Bud’s Thrift-T-Wise*, 236 NLRB at 1204 (“With regard to local autonomy, we find that the individual store managers exercise considerable authority in personnel matters.”); *UPS Ground Freight, Inc.*, 921 F.3d at 254. Store managers exercise significant additional authority, which further distinguishes the operations at each Starbucks store.

First, store managers are responsible for maintaining adequate staffing and are ultimately in charge of individual work assignments. P. Ex. 2 at 15 (“The store manager is ultimately in charge of all store operations and directs the work of the assistant store manager(s), shift managers (where applicable), shift supervisors and baristas. The store manager is responsible for personnel decisions, scheduling, payroll and fiscal decisions.”); *see supra*, Section II.B.5.

Second, store managers are responsible for maintaining personnel and business records at the store. Each store has a file cabinet, and it is the store manager’s responsibility to keep and maintain personnel records and answer any questions about them. P. Exh 2 at 43. The store manager is also responsible for all timekeeping and payroll records. *Id.* at 19-20.

Finally, the Employer’s Partner Guide clearly states that employees should call store managers, even when they are not at the store, to address any problems. *Id.* at 45 (“Partners who

need to contact the manager during non-working hours should call the manager to talk directly”). The Employer plainly relies on store managers to handle the bulk of day-to-day decision-making and responsibility at the store level.

2. *The District Manager Supervision for Store 304 Is Disconnected From the Daily Control of Operations and Labor Relations.*

a. *The District Manager for Store 304 Fails to Spend Any Significant Supervisory Time in Store 304.*

Supervision is another related factor, but it is distinct from the control of labor relations and local store autonomy. See *Renzetti’s Mkt., Inc.*, 238 NLRB 174, 176 (1978) (“The Employer’s argument misses the mark for it is the separate supervision at each of the stores, not the independence of the local store manager, which underscores our analysis.”). In a retail chain operation, localized supervision supports single-store units. See *id.*; *Red Lobster*, 300 NLRB at 912. If management above the store level does not routinely visit and directly supervise employees at individual stores, it implies the autonomy of the store, and thus the appropriateness of individual units. *Renzetti’s Mkt., Inc.*, 238 NLRB at 176.

In *Red Lobster*, the Board determined that an area supervisor spending one day per week at individual stores did not constitute substantial supervision under the law. 300 NLRB at 912 (finding inadequate supervision where “[a]rea supervisors are present in each of the restaurants on average about once each week, typically for the full day. When not present, the area supervisor maintains daily telephonic communication with each of the restaurants to which he is assigned.”).

Here, the district manager for the district that includes Store 304 estimates that she is in one of the stores in District 114 for 24 to 30 hours a week. Tr. 365:9-18. When spread across the ten stores Ms. Turvin oversees, that averages out to a meager 2.4 to three hours a week per store. See Board Exh. 2 at 1-2. The Starbucks website states Store 304’s hours are 6:30 am to 4:30 pm

on Saturdays and Sundays, and 5:30 am to 4:30 pm for Monday through Friday, for a total of 76 operating hours per week.² *Broadway & Denny Way: Starbucks Coffee Company*, <https://www.starbucks.com/store-locator/store/1021033/broadway-denny-way-101-broadway-east-seattle-wa-981026067-us> (last visited Jan. 30, 2022). In other words, Ms. Turvin works in Store 304 less than one-third of a single operational day in a week. Ms. Turvin's presence in Store 304 is even less than what the Board has found inadequate to rebut the single-store presumption.

Out of 162 employees that the Employer claims Ms. Turvin oversees, she states a partner may contact her once or twice a week since the onset of the pandemic. Tr. 281:3-6, 419:23-420:13; *see* Board Exh. 3 at Attachment C 1. Ms. Turvin stated a partner might have contacted her once a month pre-pandemic. Tr. 281:3-9. Yet, since Store 304 joined District 114 in October of 2020, Ms. Turvin cannot recall receiving a single email from an employee at Store 304 other than the store manager and only received a few text messages or phone calls from non-store managers. Tr. 420:14-421:14. In complete contrast, Ms. Turvin estimates that she communicates with her district's store managers daily, including Ms. Mariscal. Tr. 281:16-19, Tr. 324:16-20, 329:23-330:9.

Additionally, Ms. Mariscal admitted "it's been a while since" her supervisor, Ms. Turvin, was at a store meeting and that Ms. Turvin will "pop into a store meeting or a shift supervisor meeting" "every once in a while." Tr. 246:3-7. Ms. Mariscal estimates that out of four store meetings a year, Ms. Turvin "might make it to one or two." Tr. 246:10-19. Out of the last four monthly shift supervisor meetings, Ms. Mariscal estimates Ms. Turvin attended one of them. Tr. 246:20-23.

² That Ms. Turvin incorrectly believed Store 304 to be open 6:00 am to 4:00 pm every day of the week, Tr. 394:8-12, is merely illustrative of her lacking any meaningful personal engagement with the store.

Ms. Durkin testified that her District 114 district manager, Ms. Turvin, has never directed Ms. Durkin on how to do her job. Tr. 590:15-17. Nor has Ms. Turvin ever communicated with Ms. Durkin, a shift supervisor, without Ms. Mariscal present. Tr. 590:18-20. Ms. Turvin has not trained Ms. Durkin. Tr. 590:21-22. Ms. Ybarra stated that she has rarely interacted with Ms. Turvin. 627:25-628:10. And when Ms. Turvin does interact with Ms. Ybarra, she has never directed Ms. Ybarra's work. Tr. 628:11-13. Like Ms. Durkin, Ms. Ybarra has never communicated with Ms. Turvin without Ms. Mariscal present, except when the Union filed the petition to represent the workers. Tr. 629:8-14. Ms. Ybarra has not witnessed Ms. Turvin training or counseling anyone besides Ms. Mariscal. Tr. 629:25-630:3.

b. The District Manager for Store 304 Fails to Perform Any Immediate Supervision of Store 304 Employees.

The Board has found that day-to-day supervision is the most relevant factor in this analysis:

What is most relevant is whether or not the employees at the sought store perform their day-to-day work under the immediate supervision of one who is involved in rating their performance and in affecting their job status and who is personally involved with the daily matters which make up their grievances and routine problems.

Renzetti's Mkt., Inc., 238 NLRB at 175. The record is thick with evidence that the district manager for Store 304 lacks any semblance of daily supervision.

For hiring, Ms. Mariscal stated that her district manager does not review her hiring decisions for the barista position. Tr. 54:10-15.

For discipline, Ms. Mariscal said that her district manager does not engage in verbal coaching or written warnings unless Ms. Mariscal requests Ms. Turvin's input. Tr. 34:6-34:9. The district manager does not even become aware of a documented coaching or written warning unless any employee appeals their discipline. Tr. 85:13-15. Ms. Mariscal is the face of the

company to the employees at Store 304—not Ms. Turvin. For example, on the rare occasion that Ms. Turvin is in Store 304 performing an “observe and coach,” and Ms. Turvin witnesses an issue with a barista or store employee, Ms. Mariscal is the Employer’s representative that engages in the conversation with this employee. Tr. 321:9-322:9.

Even if an employee appeals discipline, the one example that the Employer uses to show district manager engagement in discipline is unreliable. The Employer offered Exhibit 209 to show that it is consistent with how Ms. Turvin would review and overturn discipline. Tr. 88:14-21. Yet the Employer does not produce any evidence of Ms. Turvin actually doing so. Instead, the Employer introduced a document not completed by the witness authenticating it, was not from Store 304 nor District 114, and the witness could not attest to who voided the discipline. Tr. 86:1-23, 87:17-21, 91:4-92:9. The Employer admitted that it wasn’t “sure who the district manager is, or was at the time.” Tr. 91:7-15. Further, its witness said, “I guess I’m not sure if it shows just that,” meaning she wasn’t sure if it even shows a district manager voiding discipline. Tr. 91:7-92:4. The document is a business record showing discipline, but the Employer’s evidence does not support Ms. Turvin interjecting herself in any employee discipline, and the Regional Director should give it no weight.

With respect to training, Ms. Turvin states that her store managers can train their respective employees without seeking her approval first. Tr. 270:5-10.

For scheduling, Ms. Turvin does not approve schedule changes. Tr. 220:9-23; *see* P. Ex. 4 at 55. Nor is Ms. Turvin involved in the borrowed employee process. Tr. 102:25-103:5.

Even when Ms. Mariscal is on vacation, Ms. Turvin does not step in and actively manage the store; rather, she communicates with a “proxy” store manager to manage Store 304. Tr. 327:22-328:6. Moreover, Store 304 employees do not contact Ms. Turvin about their concerns,

such as whether the store should close for inclement weather. *Id.* Instead, they contact Ms. Mariscal, even while she is on vacation. *Id.*

Regarding evaluations, Ms. Turvin testified that she only discusses PDCs with store managers. Tr. 329:10-20. Ms. Turvin states that she is involved in Partner Development Plans for shift supervisors but provided no specific instances of meeting with Store 304 shift supervisors. *See* Tr. 280:7-281:2. Ms. Turvin states that she may address an employee's customer complaints "maybe once a month." Tr. 281:24-282:1. Ms. Turvin discussed that she reviews store metrics provided by the Employer's corporate side. Tr. 331:23-333:15. If Ms. Turvin notices one of her ten stores is not performing as it should, Ms. Turvin discusses those results with the store manager. Tr. 333:18-334:15. One example Ms. Turvin provided was when customers were giving one of her stores low reviews related to beverage quality. Tr. 334:16-335:9. Ms. Turvin discussed this issue with the store manager, and they together made a plan to address the problem. Tr. 335:10-13. Ms. Turvin said that if the store did not see positive results from the plan, she "would get closer and likely spend more time with the store manager, trying to identify and build a better plan." Tr. 335:22-24. What is critical is that Ms. Turvin did not say she would observe, coach, counsel, or train shift supervisors or baristas herself, and the evidence is completely lacking that she has *ever* done so concerning Store 304. *See id.*

The parties adduced other evidence of the absence of any district manager role in daily labor relations. Ms. Turvin claims that she has the discretion to set the pay rates of shift supervisors, but in fact, she never has exercised that authority. Tr. 407:2-4, 408:10-13, 437:8-15. Ms. Turvin also couldn't say whether employees may earn different amounts of money based on which store an employee works. Tr. 409:0-18. She couldn't even explain how the employee tip

pooling program works or whether Washington State or City of Seattle laws affect tip pooling.
Tr. 409:19-410:16.³

The overwhelming evidence demonstrates that the Store 304 employees “perform their day-to-day work under the immediate supervision” of the store manager for Store 304, not the district manager. *Buffalo I CO*, 2021 WL 5848184 at *1 fn. 2 (citing *Haag Drug*, 169 NLRB at 878). The Employer tasks the store manager—not the district manager—with “rating employee performance,” “performing the significant portion of hiring and firing of employees,” and to be “personally involved in the daily matters which make up [the employees’] grievances and routine problems.” *Id.* (citing *Haag Drug*, 169 NLRB at 878). The fact that the district manager exercises so little immediate supervision over the day-to-day operations of individual stores reinforces that single-store units are appropriate and that the Employer cannot rebut this presumption on the record.

D. Store 304 Employees Have Unique Skills, Functions, and Working Conditions.

The Board considers the similarity of job skills, plant and product integration, and working conditions in the appropriate unit analysis. The Board considers working conditions at different stores to help determine the appropriate unit. *See Elmore, V.J.*, 5, 10 & \$1.00 Stores, *Inc.*, 99 NLRB 1505, 1505 (1952). Working conditions include hours, pay, benefits, and the nature of the employer’s operations. *Id.*; *see also Red Lobster*, 300 NLRB at 908. Similar working conditions are usually considered to determine whether there is a community of interest in a petitioned-for multilocation unit. *See Audio Visual Servs. Grp.*, 370 NLRB No. 39, slip op.

³ They do. *See* Wash. Dep’t of Labor & Indus., *Tips, Gratuities, and Service Charges*, Administrative Policy No. ES.A.12, (Mar. 6, 2019), *available at* http://www.lni.wa.gov/WorkplaceRights/files/policies/esa12.pdf?utm_medium=email&utm_source=govdelivery; Seattle Municipal Code 14.20 (https://library.municode.com/wa/seattle/codes/municipal_code?nodeId=TIT14HURI_CH14.20WATICORE).

at 3 (Oct. 26, 2020). Even when conditions of employment are centrally administered and uniform at different locations, the Board has upheld the single-facility presumption. *Red Lobster*, 300 NLRB at 908 (finding single-facility units appropriate even where “[p]olicies regarding wages, hours, overtime, vacations, holidays, retirement, profit sharing and employee fringe benefits are centrally established and uniformly applied at all the Red Lobster restaurants.”).

Additionally, the Board has found that stores have their “own identity as a distinct economic unit by virtue of the fact” that one store was a “downtown store” and another was “located in a shopping mall.” *Lipman’s*, 227 NLRB at 1438 fn. 7; *see also Hot Shoppes, Inc.*, 130 NLRB 138, 141 (1961) (finding operations “functionally distinct” where some workers catered at airport and others served in normal restaurants). In *Elmore, V.J., 5, 10 & \$1.00 Stores, Inc.*, the Board found single-store units appropriate “although wages are generally uniform throughout the district, hours of work vary from one store to another, as they depend upon custom in the local community.” 99 NLRB at 1505.

Here, working conditions at the stores in District 114 are not uniform because the stores have different hours, equipment, staffing needs, job responsibilities, and customer base. All but two stores within District 114 have varying hours, according to Ms. Turvin.⁴ Tr. 340:20-22, Tr. 394:5-395:15. The stores in District 114 have varying staffing numbers. For example, the University Way South store has nearly 40 employees, whereas the Leschi store has 13 employees. Tr. 377:8-377:14. Stores will also have seasonal variations. For example, the store near the University of Washington will be busier when the University is in session instead of when it’s not. Tr. 379:18-379:14. This variation can impact the number of hours an employee can work or the predictability of schedules. Tr. 379:15-24.

⁴ Again, noting that Ms. Turvin’s recollection of hours was not accurate. *See supra*, Section II.C.2.a.

Employees also need different skills and have different working conditions based on their store's unique equipment. For example, stores have different espresso machines, and some have specialty coffee makers. Tr. 339:21-340:1, Tr. 556:25-557:4, Tr. 561:14-22. Ms. Turvin said one store in her district had a unique computer program called a "digital production manager" that "helps to identify when an order might be completed." Tr. 340:2-6. An employee from a different store would have to learn this program before or while serving customers. Additionally, individual stores will test programs for the employer. Another example was when a store formerly in District 114 tested a reusable cup and a handheld point-of-sale system. Tr. 370:16-371:4.

Store layouts are also different. Many District 114 stores do not have customers seated in stores, whereas other stores do. Tr. 366:22-367:9. The employees at stores with customers seated use skills such as cleaning the café area and having prolonged engagement with customers that stores without seating do not face. Store 304 has a unique design; Ms. Durkin described the store as "kind of a designer" store with different equipment. Tr. 596:20-4.

Ms. Turvin described that employees will have "experiences that are different in each store that might build skills differently" Tr. 337:17-23. For example, Ms. Turvin described that customer from more affluent neighborhoods have higher expectations, communicating these expectations to employees. Tr. 337:24-338:4. As a result, employees need to be better at anticipating customer needs compared to other stores. *Id.* The northern zone and lakeside zone stores experience a faster pace than the downtown core zone.⁵ Tr. 367:10-368:5. As Ms. Turvin plainly put it: "Not every partner wants to work in a busy environment." Tr. 367:14.

⁵ The Union addresses District 114's distinct zones further in Section II.F.

In contrast, employees in the downtown core zone need to build better empathy skills for “challenging community members” or “underserved people” that stores in wealthier neighborhoods do not encounter.” Tr. 338:5-9. Ms. Turvin said that these individuals include inebriated people and those experiencing mental health issues. Tr. 363:11-364:7. It is to the point where employees at two stores within District 114 now work in a store with security guards. Tr. 380:17-381:4. Employee safety concerns have caused the Employer to remove in-store seating for customers in two of District 114’s stores, including Store 304. Tr. 441:6-14. In fact, Store 304 experiences visitors misusing the store space, such as loitering, shoplifting, and theft, more than other stores in District 114. Tr. 444:3-9.

Stores in different areas experience different demands for different types of drinks. Ms. Turvin described that the downtown zone customers are more likely to want a standard drip coffee because they want their drink quickly. Tr. 361:24-13. In contrast, stores outside the downtown zone will see a greater desire for drinks brewed on demand. *Id.* As a result, employees outside the downtown core develop a high-level skillset for more demanding or unusual drinks than the downtown core. Tr. 362:14-24. The Employer’s senior leadership visits the lakeside zone stores more frequently than other stores. Tr. 368:6-369:5. Thus, the employees at the lakeside zone frequently receive feedback on their performance from high-level corporate leadership more than employees working at other stores in the district. Tr. 369:9-14. The Employer’s senior leadership will often ask employees at the lakeside zone stores about the Employer’s programs, as well. Tr. 369:15-21.

1. The Employer’s Chainwide Similarities are Insufficient to Rebut the Single-Store Presumption.

The similarity of job skills, plant and product integration, and working conditions are not as crucial in the retail industry, where uniform skills and product integration are common. *See*

Haag Drug Co., 169 NLRB at 877-878; *see also Hilander Foods*, 348 NLRB at 1203 (“although the employees at the six stores have essentially the same skills and functions, there is no evidence that these differ significantly from those of Kroger employees in its many other stores—stores which the Employer does not seek to include in the unit”). The Board considers these factors more relevant in determining whether petitioned-for multi-location units are appropriate, rather than to overcome the single-facility presumption. *See Exemplar, Inc.*, 363 NLRB No. 157, slip op. at 3–4 (2016). Even under circumstances where employee skills, functions, and working conditions are similar, the Board has held it is “not sufficient to rebut the single-facility presumption, especially given the lack of centralized control and interchange.” *Buffalo I CO*, 2021 WL 5848184 at *1 fn. 2, *see supra*, Section II.B and C, *see infra*, II.E.

Granted, the Employer aims to have its employees possess the same skills. Tr. 338:10-13. Likewise, it sets uniform benefits for its employees. *See* P. Exh. 14. But these facts apply to all of Starbucks’ stores nationwide and are in no way limited to District 114. Because the similar skills and products at the separate stores have little significance, and there are significant differences in the working conditions at the stores, the Employer fails to rebut the single-facility presumption here.

E. The Existence of Limited Employee Interchange at Store 304 Does Not Destroy the Community of Interest.

Employee interchange is an important factor in the appropriate unit analysis. It is part of a larger determination of whether there is “functional integration of a sufficient degree to obliterate separate identity” between stores. *Haag Drug Co.*, 169 NLRB at 877. An occasional covered shift or holiday coverage will not suffice; rather, only “substantial employee interchange destructive of homogeneity” will contribute to overcoming the presumption.

1. *Store 304 employees are a homogenous group.*

The voluntary interchange of workers at the petitioned-for store is not significant enough to overcome the homogeneity of the workforce of that store. In *Red Lobster*, the Board clearly elucidated what is significant enough interchange to rebut the single-facility presumption:

Temporary transfers in this case consist of employees working some hours during the week in a store other than the one to which they are assigned. Even in the Dearborn Heights restaurant, where the degree of temporary interchange is most extensive, only 19 employees out of a work force of 85 employees were affected by a temporary work assignment during 1988, usually for very short periods of time. Permanent transfers, a less significant indication of actual interchange than temporary transfers, were similarly minimal, with 11 permanent transfers in a combined work force of 185 employees within a 1-year period.

....

[I]t appears that only a small number of employees were involved in transfers. This distinguishes the case at hand from *White Castle System*, 264 NLRB 267 (1982), in which the Board dismissed the election petition. In that case 200 employees were involved in temporary transfers out of a total group of 350-400 employees.

300 NLRB at 911-912; *see also Cargill, Inc.*, 336 NLRB 1114, 1114 (2001) (“In any event, we would not view 13-14 instances of interchange among 23 employees over an 8-month period as demonstrating substantial interchange sufficient to overcome the single-facility presumption.”). Therefore, the Board held that temporary interchange of 19 of 85 (22.35%) employees in a given year is not significant enough to destroy homogeneity in a petitioned-for unit and overcome the single facility presumption. *See Lipman’s*, 227 NLRB 1436, 1438 (1977) (“While there were 141 permanent transfers . . . they are not relevant in determining employee interchange”). This is intuitive under the law because if a store has a fluctuating workforce, it is impossible to determine who should be and who should not be included in the petitioned-for unit. Here, interchange does not rise to the level of challenging the identity of the single-store units because the Regional Director can determine who should and should not be in the petitioned-for unit.

Regarding Store 304, it is first off worth noting that even Ms. Turvin testified that Store 304 “is a very cohesive team.” Tr. 273:11. Second, Store 304 does not have any recent history of prescheduling “borrowed” employees in Store 304. The Employer provided its Weekly Labor Reports and Daily Coverage Reports, with the most recent date of December 19, 2021. P. Exh. 4 at 1. In flipping through the reports, you would have to go back to September 11, 2021, to find even one instance where anyone but the regular group of partners assigned to Store 304 was scheduled to work at that store. *Id.* at 113.

Even so, this employee, Noah Sharp, was not truly a borrowed employee by that date; he was, instead, part of the same homogenous group of Store 304 employees. Ms. Mariscal said that Mr. Sharp initially worked as a borrowed partner for “a couple shifts,” even though he was exclusively working in Store 304, but she could not say when Mr. Sharp became a permanent employee. Tr. 220:24-221:23. Mr. Sharp continued working at Store 304 with an indicator in the timekeeping software that he was a borrowed partner for 28 shifts over more than a month, despite being a borrowed partner for only “a couple shifts.” P. Exh 4 at 113-171; Tr. 220:24-221:23. Importantly, Ms. Mariscal noted that “it takes a while” for the borrowed partner coding to be removed from the employee’s name in the timekeeping software. Tr. 226:7-226:12, 223:7-11.

Outside of Mr. Sharp, a person reviewing the Employer’s Weekly Labor Reports would have to go back over half a year to find a true indicator of a borrowed partner. P. Exh. 4 at 241. In this case, Store 304 had three borrowed partners prescheduled for the week of May 31 through June 6, 2021. *Id.* Upon review of the Employer’s raw data in Employer’s Exhibit 223, Store 304

has only had five shifts worked by borrowed partners since September 11, 2021,⁶ the last day the Employer listed Mr. Sharp as a borrowed partner. *See* Emp. Exh. 223 at row 59,378 through 66,522. In other words, the Employer's raw data shows that Store 304 had a borrowed partner working in the store five days over three months.

These low numbers are backed by witness testimony. For example, Ms. Ybarra estimates that she may see a borrowed employee in Store 304 once every three to four weeks despite the number of shifts she works. Tr. 627:15-20. Likewise, Ms. Durkin estimated that she worked with a borrowed employee from another store possibly once a month. Tr. 594:20-22.

In light of the foregoing, and especially when viewing the last six months or so of employment at Store 304, the employer's records and testimony by Store 304 employees convincingly demonstrate that the workers at Store 304 are a homogenous group.

2. The employee interchange that does exist is voluntary

Even acknowledging that some minimal interchange exists between Store 304 and other Starbucks stores, including (but not especially) other stores in District 114, the interchange of employees at Starbucks is entirely voluntary. Significantly, the Board gives less weight to voluntary interchange in rebutting the single-facility presumption. *Buffalo I D&DE* at 20, *Mesa D&DE* at 16, *Buffalo II D&DE* at 26 (all three citing *New Britain Transp. Co.*, 330 NLRB 397, 398 (1999) (“[V]oluntary interchange is given less weight in determining if employees from different locations share a common identity.”); *Red Lobster*, 300 NLRB at 911 (noting that the

⁶ The Union performed this analysis of Employer's Exhibit 223 as follows: sort column A, “Worked_store,” from smallest to largest; locate Store 304 found in row 59,378 through row 66,522; copy and paste all of Store 304's data to a new spreadsheet; sort column H, which was “Business_date,” from newest to oldest. The Employer's data shows borrowed employees working in Store 304 on September 19, October 5, October 17, November 22, and November 24 of 2021.

“significance of that interchange is diminished because the interchange occurs largely as a matter of employee convenience, *i.e., it is voluntary*”) (emphasis added)).

Despite what the Employer contends, the store manager of Store 304 herself stated that the Employer has zero expectation that employees work in other stores, and employee shifts at other stores are entirely voluntary. Tr. 184:14-185:3, 583:4-10, 627:5-7. Moreover, consistent with Ms. Mariscal’s testimony (as well as the testimony of the two worker witnesses), employees face no consequences if they choose not to work in other stores. For example, the Employer will not pass over an employee for a promotion if the employee opts not to work in a different store. Another example is that the Employer has never disciplined Ms. Ybarra for not taking an open shift. Tr. 627:12-14. Tr. 184:22-185:3. The doctrine that working borrowed shifts is voluntary, not mandatory, is not limited to Store 304; it applies nationwide. Tr. 185:4-5.

Even further, employee interchange is the responsibility and under the immediate control of employees and store managers, and is no way directed at the District level. This brief thoroughly detailed how Ms. Mariscal and employees of Store 304 fill shifts through swaps. *See supra*, Section II.B.5. Employees do this by sending text messages to each other or using the Store 304 group text message thread, Tr. 570:19-571:2. 622:13-20. Employees will also use the Area 10 Facebook page to post shifts that they hope to have other Area 10 employees cover. *Id.*; P. Exh. 9, P. Exh. 11; P. Exh. 12; P. Exh 13. Thus, what interchange does occur does not suggest that Store 304 is functionally integrated into District 114 to the point where its own identity has been lost. *See, e.g., Mesa D&DE* at 16 (finding that the evidence showed that employee interchange was voluntary, and that employee interchange was “the responsibility and under the immediate control of employees and store managers.”).

3. *The Employer Failed to Present the Necessary Evidence of Employee Interchange to Rebut the Single-Store Presumption.*

The Employer's data, even looked at in the light most favorable to Starbucks, establishes a very minimal amount of interchange. Even when an employer demonstrates "that a significant percentage of employees work 'at least one shift' at another store 'per year,' this is not evidence of *regular* interchange sufficient to rebut the single-facility presumption" *Buffalo I CO*, 2021 WL 5848184 at *1 fn. 2 (citing *Cargill, Inc.*, 336 NLRB at 1114).

The Employer's expert report shows only whether an employee worked a single day in a different store than their home store for ten of the Employer's stores during an era that saw widespread closures because of a pandemic, historic protests, and inclement weather. Emp. Exh. 229 at 1, 3, 7, 15-16, 20-21, 23, 27-28, 30, 34; Tr. 491:492:5, Tr. 498:15-499:2, 506:4-5, 509:9-13, 509:18-22, 516:2-4. The same goes for the expert's analysis of Store 304: the report looks to whether a single employee worked a single shift at Store 304 in over two and a half years. Emp. Exh. 229 at 2-3, 22-23, 29-30 Tr. 492:6-15, 508:22-509:7, 511:22-512:5.

The expert's charts that show significantly higher borrowed employees during the Spring months are especially indicative of this unprecedented turmoil. Emp. Exh. 229 at 6, 19, 26, 33. The higher spring days correlate with the early pandemic shutdowns that forced the employer to close its stores and allowed the employees to work at other stores. Tr. 497:20-22, 514:13-14. Additionally, the chart indicates a higher number of borrowed partners toward the latter end of August, which correlates with the vandalism that shut several stores down.

Likewise, the Employer's expert produced data related to Store 304 from April 29, 2019, to February 29, 2020. Emp. Exh. 229 at 8-14. Even putting aside the fact that Store 304 was not even *in* District 114 during this timeframe, the analysis does not indicate the *frequency* of borrowed employees. The analysis simply shows that a minority of Starbucks employees, in a

district that Store 304 did not belong to at the time, worked in a single shift in a store other than their home store over 306 days. Emp. Exh 229 at 8-9, 10, 14; Tr. 499:11-501:20, 502:18-23, 503:20-504:11.

Petitioner is aware that some of the Employer's evidence suggests a fairly high presence of borrowed partners at Store 304. *See, e.g.*, Employer's Exhibit 229, pages 4, 11, 17, 24, 31, indicating that during various periods between April 29, 2019, and December 12, 2021, applying various criteria, a borrowed partner (borrowed from some Starbucks store, not necessarily from within District 114) was employed at Store 304 anywhere from 20 to 35% of days the store was open. Petitioner submits that in addition to all of the unreliable assumptions that were baked into Starbucks' statistical analyses, as explained below, it is significant that more than one work shift takes place on any given day, so that a bargaining unit member has a 50-50 chance of not overlapping with a borrowed partner on any given day *even if* a borrowed partner is employed on that day. Most importantly, however, Starbucks' data does not examine the most recent, and therefore most relevant, time period, e.g., the past six months, during which time, among other things, Store 304 was not closed due to vandalism, Store 304-assigned partners were presumably less likely to miss work due to COVID-19, and Starbucks partners through the region were also presumably not excessively hampered in their effort to get work at their home stores (and therefore desirous of transferring into Store 304) due to the pandemic.

The Employer's evidence also fails to be meaningful because it is not in the proper context under Board precedent. In *New Britain*, the Board was unconvinced when an employer presented only evidence of the number of temporary employee interchanges:

Assuming, as the Regional Director did, that there were 200 bona fide instances of temporary employee interchange, that data alone lacks any context and, thus, is of little evidentiary value because the Employer did not present evidence on the percentage of the total number of routes and charters involving temporary

interchange or the percentage of the total employees involved in temporary interchange.

330 NLRB at 398. Just as in *New Britain*, the Employer has failed to present employee interchange in the proper context: the percentage of shifts and hours worked in Store 304 by borrowed employees *otherwise employed in the district which the Employer claims is the smallest appropriate unit*. The Employer could have easily done so, just as it presented this evidence in the *Buffalo I* and *II* and *Mesa* cases. But it chose not to. Region 3 and 28 found the percentage of shifts and hours worked by borrowed employees otherwise employed in the group of stores which the Employer claimed was the smallest appropriate unit compared to home store employees as the most informative analysis—not whether an employee worked a single shift in a store different than their home store in over two and a half years. *Buffalo I D&DE* at 21, *Mesa D&DE* at 16-17, *Buffalo II D&DE* at 26-27; *see also Buffalo I CO*, 2021 WL 5848184 at *1 fn. 2 (citing *Cargill, Inc.*, 336 NLRB at 1114 (2001)). Given the Employer’s failure to cite any actually relevant data on employee interchange, the Regional Director should find in favor of the Union for this factor.

a. Garbage In, Garbage Out

The Employer’s data is rife with uncertainty and known errors. First, Eli Hannah testified that he could not be sure the raw data, which included 1.2 million different entries, used to build the Employer’s expert analysis is error-free. Tr. 478:10-479:1. *See* Emp. Exh 226. For example, if a store manager incorrectly entered the wrong home store, the data that Mr. Hannah compiled would not be accurate. Tr. 479:2-7.

Moreover, the data is just that—it does not provide any context as to why an employee shows as working in a different store than their home store. Tr. 481:16-18. The data does not reveal whether the Store 304-assigned employee worked in a different store than their home store

because of some extenuating circumstance like COVID, vandalism, or weather, which would cause a store to shut down. Tr. 481:19-482:2. Lastly, the data does not tell whether an employee voluntarily worked a shift at another store or involuntarily worked that shift. Tr. 482:3-8.

Furthermore, the Employer's expert analysis is wholly based on a faulty premise. The expert built his analysis using Stores 104, 304, 305, 2958, 3238, 3248, 3281, 3298, 3448, 3702, and 7941 for District 114. Yet, Store 304 did not come into District 114 until the fall of 2020. Tr. 134:1-4. The expert did not include Stores 302, 3394, and Store 2088, which left District 114 in the fall of 2021. Tr. 138:2-139:21, 533:7-12; *see* Emp. Exh. 229. Then, Stores 3248, 3298, and 3448 joined District 114 in the fall of 2021. Tr. 139:22-140:4. If, as the employer contends, District 114 is the appropriate bargaining unit, then the Employer's expert should compare Store 304 to the sister stores in its district at the same time. For example, the Regional Director should disregard the Employer's analysis of comparing Store 304 to the District 114 stores before the fall of 2020 because Store 304 was not in that district. *See* Emp. Exh. 229 at 8, 10-11. The analysis does not compare apples to apples during the period of closures from COVID and vandalism. Likewise, it is also invalid to compare Store 304 to stores before the Employer added them to District 114.

The Employer also lists and counts employees as borrowed partners when they are not actually borrowed. The primary example is Noah Sharp, previously discussed, but the Employer has other errors. *See supra*, Section II.E.1. When Store 304 shut down due to vandalism, some of the employees of Store 304 went to work at other stores as borrowed partners. Tr. 240:20-241:4. However, when the Employer had to keep Store 304 closed for longer, it transferred the employees to other stores to make it easier for the store managers to schedule the employees. Tr. 241:4-8.

Yet, the Employer failed to memorialize the transfer of employees when Store 304 closed for vandalism. Tr. 588:18-589:12; P. Exh. 20; Emp. Exh. 223. The Employer's punch log spreadsheet shows Ms. Ybarra working in Store 304 during training even though she was trained in a different store. P. Exh. 23; Emp. Exh. 223; Tr. 606:25-607:22, 614:14-18. Then, when Ms. Ybarra worked at the Westlake drive-thru store—Store 2810—because Store 304 was closed because of COVID, the Employer did not assign Store 2810 as Ms. Ybarra's home store. P. Exh. 23; Emp. Exh. 223; Tr. 614: 22-615: *See* Emp. Exh 227. Next, Ms. Ybarra worked at Store 112 when Store 304 closed for an extended time because of vandalism, but the Employer did not transfer Ms. Ybarra to another store in its records. P. Exh. 23; Emp. Exh. 223; Tr. 615:20-616:8.

Overall, the Employer's data is faulty, and its expert analysis is unreliable. Starbucks does not track employee interchange accurately, and it has known delays in making an employee a permanent member of a store. The Employer's expert failed to measure the correct information and did not place the data in a proper context. Even if the Employer did place it in the right context, as presented in the *Buffalo I* and *II* and *Mesa* cases, employee interchange would not increase the level of destroying the workers of Store 304's homogeneity.

4. The Extraordinary Circumstances of a Pandemic and Vandalism That Shut Down Store 304 Also Artificially Inflated Past Interchange; for This Reason as Well, Starbucks' Data Does Not Provide a Basis for Concluding that Ongoing Interchange is Substantial.

The Employer's interchange data related to past employment at Store 304 is affected by unprecedented conditions that uniquely faced Store 304. The pandemic and vandalism shut the store down, and employees went to work elsewhere. Tr. 126-13:127:1, 185:21-25. Specifically, employees worked outside of District 114 for the initial stages of the pandemic. Tr. 127:6-10. When Store 304 shut down due to vandalism the first time, the employees of Store 304 went to work at other stores as borrowed partners. Tr. 240:20-241:4, Tr. 564:23-565:7, 565:12-15.

However, when the Employer determined it had to keep Store 304 closed for a second time, it transferred the employees to other stores to make it easier for the store managers to schedule the employees. Tr. 241:4-8.

As an example, Ms. Ybarra was hired to work at Store 304. Tr. 608:2-3. However, Ms. Ybarra started working at a different store in a different district because Store 304 was shut down because of the pandemic. Tr. 608:4-10, 611:20-612:3. My Ybarra then worked in three other stores when Store 304 was closed because of vandalism, including a store outside of District 114. Tr. 608:9-13, 612:4-9. Even with unprecedented interchange because of the pandemic and vandalism, employees worked outside of Store 304 because of the shutdowns; they were not limited to working in District 114 when Store 304 was closed. Tr. 600:9-12, 608:9-13, 612:4-9, 636:4-10.

F. Meaningful Geographical Distances Separate the Stores of Starbuck’s Proposed District-Wide Bargaining Unit.

Store 304 is not geographically proximate to the other District 114 stores to weigh in favor of the larger ten-store-unit. The Board has held that distances as low as two miles apart are geographically distinct. *Cargill, Inc.*, 336 NLRB at 1114 (“The East and West facilities are geographically separate, located two miles apart”). Likewise, the Board has found stores in distinct locations, such as neighborhoods or areas of attraction, creating a meaningful geographic separation. *Lipman’s*, 227 NLRB at 1438 fn. 7 (finding stores only two miles apart were distinct economic units because one is a “downtown” store and the other is in a shopping mall).

In addition, the Board construes close geographic proximity more as a prerequisite to show that a petitioned-for multilocation unit is appropriate, rather than to establish that a petitioned-for single-facility unit is inappropriate. *See Audio Visual Servs. Grp.*, 370 NLRB No. 39 (Oct. 26, 2020); *Capital Coors Co.*, 309 NLRB 322, 325 (1992). This is because when a

union petitions for a multilocation unit, it needs to establish a community of interest amongst the workers at separate facilities, and showing close geographical proximity helps do that. *Id.* On the other hand, locations that are merely a few miles apart may appropriately bargain in separate units because:

The employees in a single retail outlet form a homogeneous, identifiable, and distinct group, physically separated from the employees in the other outlets of the chain; they generally perform related functions under immediate supervision apart from employees at other locations; and their work functions, though parallel to, are nonetheless separate from, the functions of employees in the other outlets, and thus their problems and grievances are peculiarly their own and not necessarily shared with employees in the other outlets.

Haag Drug Co., 169 NLRB at 877-878.

The ten stores of District 114 are not proximate enough to warrant finding a single-unit store inappropriate. Ms. Turvin describes the district she manages in three distinct clusters, or what she termed as “zones”: the downtown core, the northern zone, and North Seattle. Tr. 292:10-13, Tr. 265:6-11, 356:15-24. Ms. Turvin described the zones as follows:

- The Downtown Seattle urban core zone has four stores, including Store 304, Tr. 356:25-357:9;
- The northern zone has four stores near and north of the University of Washington. Tr. 357:10-358:5; and
- The lakeside zone has two stores.

Tr. 358:6-9. Ms. Turvin discussed how the stores *within* each of these zones, but not the other stores in the district, are geographically close so that they may have shared resources, such as products, staffing, and hiring. Tr. 358:10-359:12. Ms. Turvin said her “goal” or “vision” was that her district’s employees should work borrowed shifts in stores near where employees live. Tr. 359:13-360:9, 360:23-361:2. Yet these zones are geographically distinct from one another. As in *Lipman’s*, District 114 has downtown stores and stores in other distinct locations. District 114

has stores set up for ease of student access near the University of Washington, and it has its lakeside stores in more residentially oriented communities.

Ms. Turvin readily admitted that she is concerned about employees being able to reasonably commute to their stores as a reason for the zones within District 114. Tr. 360:18-22. For example, some employees walk to work, whereas others may be concerned about their ability to park at the downtown core zone stores. Tr. 366:18-22. Otherwise, employees may want to work at stores where the Employer offers parking. *Id.* Ms. Ybarra described that her preference in selecting a store to work in is based on the store's location. Tr. 630:14-19. Notably, Ms. Ybarra stated she has worked at only three of the ten stores within District 114, all stores within approximately one-half of a mile from each other in what Ms. Turvin describes as the downtown core zone. Tr. 566:2-567:16, 356:25-357:9; *see* Board Exh. 2. Ms. Ybarra has not worked in any of District 114's north Seattle or lakeside zones, which can range up to over six miles away from Store 304. *Id.*⁷

G. A Lack of Bargaining History Between the Parties Supports the Single Store Presumption.

There is no bargaining history between the Employer the Union. Bargaining history is an important factor in the Board's analysis, and when there is no bargaining history, it supports upholding the single-store presumption. *See Sav-On Drugs, Inc.*, 138 NLRB at 1034-35; *Lipman's*, 227 NLRB 1436, 1438 (1977); *Renzetti's Mkt., Inc.*, 238 NLRB at 176; *Eschenbach-Boysa Co.*, 268 NLRB at 551; *Hilander Foods*, 348 NLRB at 1202-03. Only when there is a history of multilocation bargaining does it favor overturning the single-store presumption.

⁷ In any event, even if the stores in District 114 were sufficiently close to one another under some type of analysis that disregarded the very real challenges working people would face in getting from a store in one zone to a store in a different zone, which they clearly are not, the Board has found that this is insufficient to rebut the single facility presumption given lack of centralized control and interchange. *Buffalo I CO*, 2021 WL 5848184 at *1 fn. 2.

Spartan Department Stores, 140 NLRB 608, 610 (1963) (regionwide); *Meijer Supermarkets, Inc.*, 142 NLRB 513, 514 (1963) (chain wide). Neither party presented evidence of bargaining history. Therefore, the fact that there is no bargaining history between the parties supports the appropriateness of single-store units.

III. The Employer's Proposed District-Wide Bargaining Unit Is Itself Not Meaningfully Homogenous, Especially Concerning Employee Interchange.

There are yet additional reasons why the Employer's claim that the smallest appropriate unit is District 114 is unpersuasive and must be rejected.

First, the Employer routinely admits, expels, and closes stores in districts at least once a year. Since Store 304 moved into District 114 in the fall of 2020, Ms. Mariscal said the Employer has removed three stores from District 114 and added three stores to District 114. Tr. 138:2-140:25; *see* P. Exh. 8; *see* Board Exh. 2 at 1-2. During the fall 2021 realignment, District 114 gained three stores and lost three. Tr. 371:5-372:2. The Employer realigns stores to balance out stores between districts and make room for new stores. Tr. 372:3-17. The Employer will also move a group of stores within a larger district to keep them together if the stores work closely together, if they have a relationship that is distinct from the rest of the district, if they share the same type of customers, and if they share the same parking issues. Tr. 372:18-373:25. The Employer's regional director in charge of Area 10, which encompasses the Puget Sound and Olympic Peninsula area, will annually realign the districts. Tr. 374:1-375:4. In other words, the regional director moves stores from one district to another district based on the company's needs.

Likewise, the Employer has shown no "preference" ever expressed to partners reflecting even a preference for intradistrict borrowing. This shows that District 114 and the ten stores it currently contains has no overwhelming internal homogeneity itself such as would make it even

a “more appropriate” unit than Store 304, much less the only appropriate unit. For example, District 114 has never had a district-wide meeting of partners. Tr. 219:4-16.

The Employer and employees have no restrictions on working within and outside the district. Employees do not factor in whether a store is within District 114 when working shifts at other stores. Tr. 593:12-19, 630:22-631:1. Employees are not limited to working only within District 114. Tr. 440:4-14, 627:8-11. The Employer has not told employees that it prefers employees nor restricts employees to work shifts at other stores within their home store’s district. Tr. 583:9-25, 600:14-22. Nor does the Employer prohibit employees from outside of District 114 from working inside the district. Tr. 583:16-20. When Ms. Mariscal seeks coverage for shifts in Store 304 from employees outside of Store 304, she estimates that she finds employees outside District 114 half the time. Tr. 101:5-9. Ms. Mariscal uses an Area 10 Facebook Group page to contact employees across Area 10 for potential open shifts. Tr. 573:4-574:7, 575:25-576:2; P. Exh 17. The Area 10 Facebook Group page is not limited to District 114, and employees and store managers across Area 10 post open shifts looking for coverage. Tr. 578:2-12, 580:1-2, 581:7-9; P. Exh. 9; P. Exh. 11; P. Exh. 13. Additionally, Employees transfer from stores out of District 114. Emp. Exh 210; Tr. 97:13-18.

The Employer also doesn’t have any special provisions for District 114. Its forms are not unique to District 114. Tr. 205:15:21; *see* P. Exh. 5. As the district manager of District 114, Ms. Turvin does not set pay rates. Tr. 405. She also does not have any decision-making authority or ability to deviate from the following:

- an employee’s eligibility for healthcare or healthcare generally;
- reimbursement accounts;
- health savings accounts;
- 401(k) savings plans;
- stock plans;
- short-term disability, long-term disability, life insurance and the ADD plan;

- time-off benefits;
- the employee assistance program;
- family expansion reimbursement program;
- the deferred action for childhood arrivals program;
- Starbucks college achievement plan;
- AFLAC voluntary benefits;
- employee discounts;
- Partner connection fitness reimbursement and elite athlete plans; or
- Starbucks' matching gift policy.

Tr. 401:20-405:10.

Under these facts, there is no plausible reason to conclude that District 114 is the smallest appropriate unit that provides a homogenous experience for baristas and shift supervisors. Accordingly, the Regional Director should reject the Employer's argument.

CONCLUSION

The testimony at the pre-election hearing and the parties' exhibits present overwhelming evidence that the Employer failed to rebut the Board's long-standing precedent that a single-store is an appropriate bargaining unit. The store manager for Store 304 exercises daily control over operations and labor relations through hiring, discipline, training, promotions, staffing, scheduling, time tracking, payroll, approving time off, performing evaluations of employees, resolving employee grievances, and a host of other indicia. In contrast, Store 304's district manager's average presence in each of her ten stores is three hours or less per week. The district manager does not exercise any meaningful control over daily operations and labor relations in that short period. Moreover, employee interchange between the Employer's stores is minimal and completely voluntary.

Likewise, the employee's skills, function, working conditions, and Store 304's meaningful geographic distance from other stores support the single-store presumption. Moreover, the parties do not have any bargaining history, further supporting the presumption.

All these conclusions have previously been reached, on essentially identical facts, by two separate NLRB Regions, in three separate DD&Es, and by the full Board, which denied Starbucks' request for review of the first DD&E. We ask that the Region find the petitioned-for unit appropriate and order a mail ballot election as quickly as possible.

Dated this 31st day of January, 2022.



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DECLARATION OF SERVICE

I, Jennifer Woodward, hereby declare under penalty of perjury that on the date noted below day, I caused the foregoing Petitioner's Post Hearing Brief to be filed with the National Labor Relations Board via the e-filing system, and a true and correct copy of the same to be delivered via email to:

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Signed this 31st day of January, 2022, in Shoreline, Washington.


Jennifer Woodward, Paralegal

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19**

STARBUCKS CORPORATION

Employer

and

WORKERS UNITED

Petitioner

Case No.: 19-RC-287954

**POST-HEARING BRIEF ON BEHALF OF
STARBUCKS CORPORATION**

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I. INTRODUCTION.

Workers United (“Union”) petitioned to represent all Baristas, Shift Supervisors, and Assistant Store Managers (“ASMs”) at a Starbucks Corporation (“Starbucks” or “Company”)-owned store located at Broadway and Denny roads in Seattle, Washington (the “Broadway and Denny” store, or “Store 304”). Starbucks contends that the smallest appropriate unit including the Broadway and Denny store must also include the other nine stores in Starbucks’ District 114. Starbucks proceeded to a hearing before the Region to protect the rights of all non-supervisory hourly partners working in District 114 to vote on the question of union representation.

Although the single-store presumption is applicable to this case, the evidence presented by Starbucks during the four-day hearing between January 12 and 18, 2022, when analyzed in light of well-established National Labor Relations Board (“Board” or “NLRB”) case law, proves that the presumption has been rebutted because the Broadway and Denny store does *not* maintain the local autonomy, control, or authority sufficient to sustain a presumptive single-store unit. All of the District 114 stores are highly integrated and follow exacting operational protocols to ensure each of the ten stores provides the same consistent Starbucks experience customers both expect and deserve. To ensure consistent service, Starbucks employs a dedicated team of partners who are hired with the expectation that they will work in multiple stores throughout the district. All District 114 partners are similarly trained, perform the same roles and duties, and enjoy the exact same terms and conditions of employment. Partners are able to work in any District 114 store on any given day and, without additional store-specific training, seamlessly provide the same great customer service. By design, 32% of Baristas and Shift Supervisors worked in more than one District 114 store from April 2019 to December 2021, and 35% of partners working in the Broadway and Denny store were “borrowed” from other stores.

Because District 114 operates as one functionally integrated unit with high levels of partner interchange, and common wages, benefits and employment terms for partners throughout the district, a single-store unit is not conducive to stable labor relations. Moreover, any decision finding a single-store unit appropriate would be improperly controlled by the extent of the Union's organizing, in violation of Section 9(c)(5) of the National Labor Relations Act ("Act"), since the facts, the law and the practicalities of the labor relations situation in District 114 mandate a single, district-wide unit.

Respectfully, the Region must not reward Workers United for using the NLRB's process to effectively gerrymander voters. The Section 7 rights of all District 114 partners must be protected by permitting them to vote together in one District 114-wide election.

II. BACKGROUND FACTS AND PROCEDURAL HISTORY.

Starbucks operates over 9,000 retail locations across the United States. The Company's North America retail operations are organized into twelve retail regions. (B I Tr. 110; M I Tr. 25).¹ District 114 is part of Starbucks' Region 1. (SEA Tr. 349). District 114 consists of ten total stores. (SEA Tr. 265). The petitioned-for store, Store 304, is managed by Store Manager Pamela Mariscal. District 114's District Manager is Johnna Turvin, who has responsibility for the Broadway and Denny store and all other stores in District 114. (SEA Tr. 268). As a District Manager, Turvin is responsible for all operations at the stores in District 114. (SEA Tr. 268).

¹ The Region has taken administrative notice of the transcripts and records from the previous R case hearings between these parties: 03-RC-282127 (Buffalo I), 03-RC-285929 (Buffalo II), 03-RC-282139 (Buffalo III), 38-RC-286556 (Mesa I), Boston I (BOS I), 01-RC-287618; (BOS II) 01-RC-287639. (SEA Tr. 18-19; Board Ex. 5). The following cases are pending between the above-referenced parties but as of January 14, 2022, had not commenced or completed hearing: Knoxville, 10-RC-288098, Chicago, 13-RC-288328, 13-RC-288667, Louisville, CO, 27-RC-288318, Eugene, OR, 19-RC-288594, Cleveland, 08-RC-288697, Hopewell, NJ, 22-RC-288780, and Tallahassee, 12-RC-288866. (Board Ex. 5).

References to the cases with completed transcripts and exhibits will be designated with the following prefixes: Buffalo I ("B I"), Buffalo II ("B II"), and Mesa I ("M I"), and Boston I and II as ("BOS I and BOS II, respectively).

Transcript citations presented in this hearing are referred to herein as ("SEA Tr.").

District Manager Turvin reports to Regional Director, Nica Tovey. (SEA Tr. 261). Turvin's responsibilities include overseeing store manager performance, authorizing hiring and training, resolving partner concerns and customer complaints, designating and modifying store operation hours, and communicating such decisions to Store Managers within District 114. (SEA Tr. 265, 268, 326-327, 342, 395).

As set forth below, individual stores in District 114 do not have sufficient local control over their operations or over their labor relations to justify a single-store unit. All District 114 stores operate according to heavily-detailed operational plans, many of which are devised at the national level. These detailed operational plans include business decisions to ensure that all customers receive the same customer experience of products and service, regardless of the store they frequent in District 114. Store operations are further driven by Starbucks' heavy reliance on technology that forecasts customer demand across District 114, schedules partners to work based on the forecasted demands and partners' availability, and by design, eliminate or minimize Store Manager discretion. All District 114 stores share the same décor and receive the same products and supplies from the same vendors via the same supply logistics network. By design, all District 114 stores operate according to the exact same protocols without variance. The Broadway and Denny Store Manager does not have any ability to deviate from these policies and procedures.

Further, all the partners who work across the District 114 stores share the same exact terms and conditions of employment regardless of the store in which they may work on any given day. The record is devoid of a single example of any difference in the terms and conditions of employment amongst any District 114 partners. Starbucks designed its operations to enable its partners (most of whom are part-time) to work in any store, at any time, to meet its operational needs. In fact, for that reason, Starbucks hires its partners with the express understanding that they

may work in any District 114 store. Because the District 114 stores operate under the same protocols and all partners district-wide share the exact terms and conditions of employment, there is extensive partner interchange and partner contact across the entire district.

Finally, although the Regional Director has recognized that the unit issues in this case are similar to those in the Buffalo cases being handled by Region 3 and other regions, and although Starbucks has deployed national policies and technology tools to standardize operations across the United States, there are critical differences in how District 114 is managed, including with respect to employee interchange. These differences are driven, at least in part, by the discretion of the District Managers in how they approach the particular issues and circumstances arising in their districts – which are largely influenced by the unique geographics and demographics of a particular district. These differences reflect not only Starbucks’ centralized management of stores at the market or district-level but also require the Region to independently analyze the facts and circumstances of this case.

Accordingly, Starbucks believes that the Union seeks an inappropriate single-store unit, and the only appropriate unit is one covering all Baristas and Shift Supervisors working across District 114, defined as follows:

Included: All full-time and regular part-time hourly baristas and shift supervisors, employed at the Employer’s facilities located in Starbucks Corporation’s District 114 in Washington.

Excluded: All store managers, assistant store managers, office clerical employees, professional employees, guards and supervisors as defined by the Act, and all other employees.

Further, because the evidence establishes that Starbucks employs a large number of irregular, part-time partners in District 114, and 34% of partners who work in the Broadway and Denny store are partners from other home stores, any employee who has worked at least four hours per week in the

calendar quarter preceding the eligibility date should be eligible to vote. *Davison-Paxon*, 185 NLRB 21, 24 (1970).

The Region conducted a four-day hearing regarding the unit scope on January 12, 13, 14, and 18, 2022. Both Starbucks and the Union called several witnesses and introduced exhibits during the hearing.²

III. THE ONLY APPROPRIATE UNIT IS ONE COMPRISED OF ALL STORES IN DISTRICT 114.

The totality of the evidence before the Region rebuts the single-store presumption and requires the conclusion that the only appropriate unit is one that consists of all Baristas and Shift Supervisors working in District 114. Under current Board law, a single-store bargaining unit is presumed to be appropriate in the retail chain setting. In order to rebut that presumption, a party must negate the separate identity of the single-facility unit. *Red Lobster*, 300 NLRB 908, 910 (1990). To determine whether the single-facility presumption has been rebutted, the Board analyzes the following community of interest factors: (1) the extent of central control over daily operations and labor relations, including the extent of local autonomy; (2) the functional coordination in operations between locations; (3) the similarity of partner skills, functions, training and working conditions; (4) the extent of common wages, benefits and other terms and conditions of employment; (5) the degree of partner interchange; (6) the geographic proximity between locations; and (7) the parties' bargaining history, if any exists. *See Trane, Inc.*, 339 NLRB 866, 867 (2003); *McDonald's, Inc.* 192 NLRB 878, 880 (1971); *see also Foodland of Ravenswood*, 323 NLRB 665, 666 (1997); *Red Lobster*, 300 NLRB at 910.

² The Union's inclusion of ASMs in the unit was not an issue set for hearing. Starbucks contends that ASMs employed in District 114 stores are Section 2(11) supervisors. This issue was deferred for resolution after the election. (SEA Tr. 14-15). Additionally, there currently is no ASM at Store 304. (*Id.* at 15).

As set forth below, the evidence proves that the single-store presumption has been rebutted in this case by establishing that: (1) Starbucks centrally controls the daily operations and labor relations of the District 114 stores such that individual stores and store managers have little or no autonomy; (2) there is extensive functional coordination in operations between District 114 locations; (3) partner skills, functions, training and working conditions are nearly identical across the market and are primarily controlled by centrally promulgated policies and procedures; (4) common wages, benefits and other terms and conditions of employment are the same across District 114; (5) there is a high degree of partner interchange across the district; (6) District 114 stores are geographically proximate to one another; and (7) although the parties have no formal bargaining history, there is a uniformity of partner interests throughout the district.

A. Starbucks Controls the Daily Operations of All District 114 Stores at the District Level or Higher.

A single-location unit is not appropriate because individual stores in District 114 lack sufficient control over daily operations or labor relations; rather, such control primarily lies at the district level or above and applies to all stores in District 114. *See, e.g., Budget Rent A Car Systems*, 337 NLRB 884, 885 (2002); *Super X Drugs of Ill., Inc.*, 233 NLRB 1114, 1114-15 (1977); *Kirlin's Inc. of Cent. Illinois*, 227 NLRB 1220-21 (1977). Facts supportive of a multi-location unit include evidence that decisions such as store layout, products, pricing, merchandising, purchasing, daily operations, and scheduling are made on a multi-store basis rather than a single-store basis. *See, e.g., Super X Drugs*, 233 NLRB at 1114. Further demonstrating the lack of local autonomy vested in Store Managers, the evidence shows that ASMs and Shift Supervisors, who are included in the petitioned-for bargaining unit, share many of the duties on which the Union relies to establish local autonomy. Thus, such duties cannot serve as evidence of discretionary local autonomy since they are performed by partners the Union contends are not supervisors within the meaning of the Act.

Here, Starbucks controls the operations and labor relations of the Broadway and Denny store and all other District 114 stores at the District Manager-level or above. Store Managers have very limited control over operational or labor decisions, and even the bulk of that control is shared with Assistant Store Managers and Shift Supervisors, militating against a single-store bargaining unit.

During the hearing, Pamela Mariscal, Store Manager of Broadway and Denny, who has been a Store Manager at multiple stores, specifically testified that there are no differences at the store level when it comes to work policies, equipment, operational procedures, addressing workplace issues, benefits, and other terms and conditions of employment. (SEA Tr. 31-33).

1. There is no Meaningful Dispute Whether Operational Decisions are Controlled at the District Level and Above.

The evidence demonstrates that store planning, design, layout, maintenance, supplies, merchandising and promotions are all controlled by policies and procedures applicable to all stores in District 114. Individual Store Managers have no control over these operational issues.

a. Store Planning, Design, Layout and Maintenance are Centrally Controlled at the District Level and Above.

All decisions about whether and where to build new Starbucks stores, and whether to close, remodel, or relocate current stores, are made at the district level and above. (B I Tr. 53-56, 63, 185; M I Tr. 86-87; 132). As addressed in prior testimony and briefing between these parties, Store Managers do not have any input into store location, design, construction, size, layout, décor, equipment, or whether or when a store will be remodeled. (M I Tr. 87-88, 95-97, 132, 161).

If a store needs a piece of equipment or repairs, a Shift Supervisor, ASM, or Store Manager submits a digital work ticket to an electronic system applicable to all stores in District 114, which is then taken up by Starbucks' facilities management team. (M I Tr. 86-87). Starbucks' facilities team locates and schedules the vendors and handles vendor payments. (Id.). The local store has

no discretion as to when or how the ticket is resolved. (Id.).

Permanent store closure decisions are made by a committee composed of high-level representatives involving the store development, finance, market planning, and legal teams. (B I Tr. 182; M I Tr. 114, 132). Individual Store Managers play no role in the decision as to whether their store will remain open or be closed. (SEA Tr. 126).

Even temporary store closure decisions are not made at the store level. District Managers have the authority and discretion to determine whether closures are necessary for safety reasons, not Store Managers. For example, in the summer of 2020, the Broadway and Denny store experienced multiple instances of vandalism as a result of the CHAZ/CHOP protests, which resulted in a temporary closure while Starbucks arranged for repairs. (SEA Tr. 125). The decision to close the store was not made by Mariscal, the Store Manager, but was made by the District Manager, Turvin, and the Regional Director, Tovey. (SEA Tr. 126). Once repairs were completed, it was again Turvin and Tovey who decided when to reopen Store 204, not Mariscal. (SEA Tr. 126). When Store 304 was vandalized again in August 2020, it was Turvin and Tovey who decided to close the store from August to November 2020, not the Store Manager. (SEA Tr. 126). Similarly, inclement weather closures are decided by Turvin, not Mariscal. (SEA Tr. 326-327). For example, after Christmas Day 2021, Turvin proactively closed Store 304 due to the weather. (Id.).

With respect to store closures relating to COVID-19, that decision was handled above the district level by the Company; it was not handled by individual stores or Store Managers. (SEA Tr. 124). Accordingly, the evidence clearly demonstrates that store operations are not controlled at the store level but are centralized at the district level and higher.

b. Starbucks Leverages Modern Technology to Centrally Control Supplies, Merchandising, and Promotions, which Eliminates Store-Level Discretion and Distinction.

Starbucks creates and implements detailed operational protocols to ensure customers receive the same Starbucks experience regardless of the store they visit on any given day. Customer flow, product selection, and services are highly orchestrated above the store level. Modern technology must be factored into the single-facility presumption analysis to account for “changing patterns of industrial life.” *The Boeing Co.*, 365 NLRB No. 154, slip op. (Dec. 14, 2017) (quoting *NLRB v. J. Weingarten, Inc.*, 420 U.S. 251, 266-67 (1975)). The use of such technology, as the record evidence summarized below shows, strengthens the centralized integration of multi-store locations and minimizes the existence of store level local autonomy to perform other than ministerial acts to carry out the policies promulgated above the store level.

As specifically referenced and briefed in the prior petitions between these parties, it is undisputed that the following functions are implemented using automated processes with no interaction from Store Managers:

- Replenishment of all packaged food, packaged coffee, merchandise, and gift cards. (M I Tr. 84-85, 151-153; B I Tr. 346); and
- Auto-shipment for select food and beverage items. (M I Tr. 84-85, 153; B I Tr. 346-347).

To be clear, the above-referenced procedures are ones which a Store Manager **cannot** adjust or schedule and require no involvement at the Store Manager level. Similarly, while not completely automated, the following operations are handled at the market, regional or national level: supply pricing, procurement, invoicing, and certain product purchasing and supply orders. (B I Tr. 70-71, 350-351; M I Tr. 56-59, 84-85, 153).

For products not covered by automated shipment, all stores use the same inventory

management system (“IMS”) that automatically suggests order quantities based on order history. (M I Tr. 84-85, 150; B I Tr. 74, 345-346). This “par builder” determines each store’s appropriate order and inventory needs based on sales history, forecast, and trend data. (B I Tr. 345-346; M I Tr. 84-85, 108, 150). There are also “suggested order quantities,” or SOQs for each store, which are designed to minimize the need for human input in inventory orders. (M I Tr. 151-153; B I Tr. 346). If the inventory is accurate, and the counts are right, then the IMS works with very little input from store-level management. (M I Tr. 152; B I Tr. 346). Further, even when Store Managers, ASMs and Shift Supervisors can make changes in the IMS, any changes can be made only within parameters centrally established by Starbucks. (M I Tr. 153; B I Tr. 123-124). Starbucks seeks to limit the input local stores can make into the system because inventory quantities are data-driven – they are determined based on previous trends, product mix, sales forecasts, and other factors. (M I Tr. 152; B I Tr. 346-347).

District 114 is no different. Mariscal testified to these facts. She testified that most of the store’s supplies are automatically ordered based on an algorithm in the Company’s system. (SEA Tr. 107). She estimated approximately 80% of the store’s supplies are ordered automatically through this system. (SEA Tr. 107-108). And when a store runs out of supplies before a delivery arrives, the store will contact other stores within District 114 to share products. (SEA Tr. 108). Paper products, cleaning supplies, and beverage inventory are just a few examples of the items that are shared within District 114 on a near daily basis. (Tr. 347-348). Starbucks’ conscious use of modern technology obviates the need for store-level discretion and rebuts the single-facility presumption.

2. Labor Relations Decisions are Controlled at the District Level and Above, Not at the Individual Store Level.

Labor relations also are centrally controlled at the District 114 level or above through the

regular and substantial interaction of the District Manager with each of the stores, in conjunction with Starbucks' nationally deployed policies and technology tools. As discussed below, virtually every major decision with respect to labor relations is handled at the District Manager level and above.

**a. Staffing Needs are Determined on a District-Wide Basis
Utilizing the Partner Planning and Partner Hours Tools.**

The staffing needs of all stores are centrally determined at the District Manager level and above. (M I Tr. 4-35, 43-44, 94-95, 149). The Partner Hours tool and the Partner Planning tool work hand-in-hand to forecast customer demand across District 114 on a per store basis, determine the number of partners to be scheduled in a particular store in the district, and determine a forward-looking forecast of how many partners may need to be hired. (ER Exs. 4, 205; B I Tr. 218; M I Tr. 94-95, 149-150, 245-246). Only the District Manager has access to the information generated by the Partner Planning tool; Store Managers do not have access to this information unless granted by the District Manager. (M I Tr. 94).

b. Hiring and Training are Handled on a District-Wide Basis.

Starbucks obtains and processes employment applications on a centralized basis, which is largely undisputed. The evidence presented and briefed in prior cases between these two parties has demonstrated that applicants for Barista and Shift Supervisor positions complete identical applications, are received through Starbucks' career website, and the data is then centrally stored in Starbucks' hiring platform called Taleo. (B I Tr. 224-234, 233-234, 236-238, 245-257; M I Tr. 63-65, 248).

With respect to hiring itself, District 114 takes a "district approach." (SEA Tr. 292). Turvin testified that when there are hiring needs for multiple stores within the district, she has the authority to schedule and organize a hiring fair. (SEA Tr. 292). This is because it is the District Manager

who must authorize and approve the need for additional partners within the district. (SEA Tr. 61). A Store Manager does not have authority to modify headcount or assigned staffing levels. (SEA Tr. 40-41). Typically, the District-wide hiring fairs occur quarterly. (SEA Tr. 60). District 114 held two hiring fairs in 2021, and part of Turvin's plan for 2022 is to schedule additional hiring fairs. (SEA Tr. 293).

For both Barista and Shift Supervisor, Starbucks has distributed interview questions and prompts for Store Managers to utilize. (ER Exs. 201, 202). Store Managers do not deviate from these questions and prompts. (SEA Tr. 53, 58). For Barista positions, there are generally three ways in which the interviews are conducted in District 114: (1) the Store Manager will conduct the interview by themselves, (2) the Store Manager will conduct the interview in a group with another Store Manager in the district; or (3) a pair of other Store Managers will conduct the interview. (SEA Tr. 48). Any time "other" Store Managers participate in such interviews, they are from the same district. (SEA Tr. 49). When "other" Store Managers conduct the interview, those Store Managers will provide a recommendation. (SEA Tr. 50). Much of the time, the Store Manager seeking to fill the position will follow the recommendation of the "other" Store Managers. (Id.). For Barista positions, a Store Manager can make a final decision as to hiring approval without seeking District Manager approval; however, Starbucks' process still requires a successful background check prior to being processed for an official offer, along with the involvement of Store Managers from other stores within the District. (SEA Tr. 54).

For Shift Supervisor positions, typically the Store Manager seeking a Shift Supervisor is not involved in the interviewing process. (SEA Tr. 55). Rather, two other Store Managers within District 114 conduct the Shift Supervisor interviews. (Id.). Once those Store Managers give their recommendation, the Store Manager filling that position consults with the District Manager before

finalizing the hire. (SEA Tr. 55). Both Mariscal and Turvin testified that Turvin is the one with the ultimate decision-making authority. (SEA Tr. 57, 342). In Turvin's own words, she does not determine who gets interviewed for roles, but she determines whether the candidate gets hired. (SEA Tr. 342).³

This is consistent with the Union's witnesses' testimony. Union witnesses testified that they did not have personal knowledge of who the ultimate decision maker was and had no personal knowledge of discussions or processes that occur prior to the partner receiving an offer of employment. (SEA Tr. 595 (Durkin)). As such, the Union's evidence is of limited probative value in determining whether hiring is done at the store level. Given the testimonial evidence by Mariscal and Turvin, there is un rebutted evidence that hiring practices are not determined at the store level.

Partner training is similarly centralized beyond the store level. Mariscal testified that while she typically implements the trainings of new hires, she has no discretion over the content of the training. (ER Ex. 203, 204). The Company has centralized Barista and Shift Supervisor training plans that do not deviate at the store level. (SEA Tr. 62-70, 145). Indeed, any additional trainings, re-trainings, or store-specific trainings must be authorized and dictated by the District Manager. (SEA Tr. 64). Furthermore, partner trainings do not always occur at the partner's home store. (SEA Tr. 65, 70). Approximately 25 percent of the time, the training occurs at a store other than a partner's home store. (SEA Tr. 65, 70). Relatedly, some trainings are completed at the district or multi-store level, not just at a single store. (SEA Tr. 110).

Based on the above-reference evidence, it is clear that hiring and training procedures do not vary at the store level. The processes require involvement from other Store Managers within

³ Moreover, Assistant Store Manager candidates are interviewed by two District Managers. (SEA Tr. 59). Store Managers and Shift Managers are not involved in the interviewing or hiring of ASMs.

District 114 along with District 114's District Manager.

c. Promotions are Controlled on a District-Wide Basis.

With respect to promotions, the District 114 District Manager makes the decision to promote a Barista to Shift Supervisor. (SEA Tr. 71-73). There are generally three positions below the Store Manager: Barista, Shift Supervisor, and ASM.⁴ (SEA Tr. 70). A promotion from Barista to Shift Supervisor requires that the interested candidate complete an application and interview process. (SEA Tr. 71). From there, the candidate follows the same process as a candidate outside Starbucks applying for a Shift Supervisor position, where the individual is interviewed by Store Managers outside the candidate's store. (*See* SEA Tr. 71). Then the District Manager possesses the ultimate authority to approve the promotion of the Barista to Shift Supervisor. (SEA Tr. 72).

This Career Progression process is consistent with Shift Supervisor Durkin's testimony about the differences between when she applied for a promotion to Shift Supervisor in 2009 versus the current process modifying Career Progression program. (SEA Tr. 594-595). And again, Durkin testified that apart from receiving the call from the Store Manager regarding her promotion offer, she has no personal knowledge of who the Store Manager may have spoken with or who had ultimate decision-making authority over the promotional approval. (SEA Tr. 595).

d. Hours of Work and Headcounts Are Determined on a District-Wide Basis, and Partners Cover Shifts in Multiple Stores.

Store Managers do not have the ability to set or change hours or to close stores; all such decisions must be approved by the District Manager. (SEA Tr. 41-44). This authority is not illusory; Store Manager Turvin testified that she has rejected recommendations by Mariscal and other Store Managers in District 114 with respect to hours of operation. (SEA Tr. 439-440).

⁴ Again, Store 304 does not currently have an ASM. (SEA Tr. 71). However, the process for promoting to ASM is identical to the process for outside hires applying as an ASM. (SEA Tr. 72). Once the panel of District Managers interviews the candidate, Turvin is tasked with the decision of approving or denying the promotion. (SEA Tr. 73).

Setting hours of work and partner schedules is a largely automated process. (SEA Tr. 41-44). The Company utilizes a forecasting system that will inform the Store Manager how many partner hours are needed. (SEA Tr. 41). The forecasting system calculates how much labor is needed based on various factors and data. (SEA Tr. 43). The system outputs the headcount necessary to staff the store. (SEA Tr. 43-44). The Store Manager cannot deviate from this headcount without first consulting and receiving approval from the District Manager. (SEA Tr. 44).

When a Store Manager is building a schedule and does not have enough partners to meet labor needs, they will immediately contact the other Store Managers within District 114. (SEA Tr. 100). When a Store Manager has an available partner, they will utilize Starbucks' system to designate that partner as a borrowed partner. (SEA Tr. 101). The partner will then be able to clock into their temporary store and get paid for their shift all within Starbucks' system. (SEA Tr. 101). This is a frequent occurrence, and is discussed more in depth below, *infra*, with respect to employee interchange. Partners can be assigned shifts in other stores based on labor needs but can also voluntarily swap shifts amongst themselves. (SEA Tr. 104-105). In fact, it is expected that partners will work in stores other than their home stores. (SEA Tr. 103). Starbucks runs its operations to purposely incorporate borrowed partners. If a store does not have enough coverage through borrowing partners, it would have to close the store. (SEA Tr. 113).

Unsurprisingly, the Union's witnesses have no personal knowledge of the procedures at the Store Manager level and above with respect to staffing, schedules, and hours.

e. Personnel Policies are Centrally Promulgated and Applicable to all Partners in the District.

Starbucks' heavily centralized control carries through its personnel policies. All partners in District 114 are subject to the same personnel policies, as crafted by a human resources team in

Seattle. The Partner Guide is given to all partners in District 114 (and throughout the country) when they begin work, and it contains all employee policies and procedures. (SEA Tr. 85, 266).

Likewise, the Operations Manual was developed centrally at the corporate level and contains policies and procedures applicable to all U.S. partners. (SEA Tr. 267). The Operation Excellence Field Guide, which was also developed at the corporate level, applies in all of the stores nationally and describes all of the field roles, routines, and resources needed for store operations from the barista level through the Regional Director level. (SEA Tr. 267).

f. Partner Work Assignments are Centrally Determined by the Play Builder Tool, and Store Managers Have No Meaningful Discretion Over Such Assignments.

The stations to which a partner is assigned during a shift are decided by an engineering tool called the “Play Builder,” which was developed by Starbucks’ Services Team. (M I Tr. 89-90, 92; B I Tr. 354 and ER Ex. 16). The Play Builder, which is used in all stores in the U.S., utilizes data to make projections of the daily store work flow, the product mix, the number of partners scheduled to work, and makes recommendations for where partners should be placed in the line layout and what tasks they should be asked to complete. (M I Tr. 89-90, 92, 327-328 (Alanna); B I Tr. 91, 354; Er. Ex. 204). Store Managers are required to use Play Builder, and Shift Supervisors also utilize Play Builder to understand where to assign partners if there are more or fewer partners working on their shift than usual. (M I Tr. 327-328, 380).

To the extent Store Managers or Shift Supervisors sometimes deviate from the Play Builder-generated plays, they do so solely based on their knowledge of which employees are good at what roles and their experience as a Shift Supervisor. (M I Tr. 292-293, 338-339, 384). Here, NLRB precedent makes clear that this is not the exercise of supervisory authority. *CNN America, Inc.*, 361 NLRB 439, 460 (2014); *WSI Savannah River Site*, 363 NLRB No. 113, at 3 (2016); *see also Byers Engineering Corp.*, 324 NLRB 740, 741 (1997) (the issuance of instructions and minor

orders based on greater job skills does not amount to supervisory authority); *Providence Hospital*, 320 NLRB 717, 727, 729-730 (1996) (routine assignment or direction to perform discrete tasks based on experience, skills, and training constitutes insufficient indicia of supervisory authority).

g. Disciplinary Matters are Centrally Determined and Store Managers Have No Discretion to Alter Them.

Further evidence of centralized control is the implementation of partner discipline. Starbucks leverages yet another technological tool, Virtual Coach, to consistently implement discipline and eliminate discretion. (ER Ex. 205; B I Tr. 280; M I Tr. 254).

Typically, a Store Manager has authority to issue coachings or written warnings without consulting with the District Manager. (SEA Tr. 73). However, any action more severe than a written warning requires approval from the District Manager. (SEA Tr. 74). Mariscal testified to the Company's procedures in determining appropriate discipline. If the issue is a minor disagreement between partners or a minor problem that can be resolved with a conversation or verbal warning, Mariscal will have that conversation without utilizing Virtual Coach. (SEA Tr. 78). However, for any other situation, like attendance or punctuality issues, she utilizes Virtual Coach to input the necessary details, will answer the prompts on the app, and then she will get a recommendation from Virtual Coach. (SEA Tr. 74-80; ER Ex. 205 at 5). Mariscal testified that she follows Virtual Coach's recommendation and only deviates from Virtual Coach's result if the situation is complicated or particularly unique. (SEA Tr. 80-81). In those instances, Mariscal contacts Partner Resources or her District Manager to consult with them on the appropriate action, but these instances are rare. (SEA Tr. 81). Importantly, while Mariscal has authority to issue a coaching or warning without initially consulting with the District Manager, the District Manager has the authority to overrule such discipline. (SEA Tr. 88). And Turvin has, in fact, overruled

such decisions in the past. (SEA Tr. 88; ER Ex. 209).

With more severe discipline, such as a final written warning or discharge, Mariscal is required to consult and obtain approval from Turvin and/or Partner Resources. (SEA Tr. 89). Store Managers do not have authority to issue these forms of discipline independently. (SEA Tr. 89). The Union may contend that Store Managers are responsible for issuing discipline. Such arguments should not be given any weight, however, because these witnesses have no personal knowledge of the procedures or discussion that occur before the Store Manager delivers discipline or corrective action. Instead, Starbucks' evidence states exactly what happens—the Store Manager utilizes Virtual Coach, and the District Manager or partner relations team approves the disciplinary action. The Store Manager simply delivers the news of a disciplinary action. Accordingly, the Union has not presented admissible or probative evidence of local store autonomy and should be accorded no weight.

Altogether, Starbucks' evidence demonstrates that all decisions regarding staffing, hiring, scheduling, promotions, and disciplinary action are controlled by Starbucks' centrally promulgated policies, handled in the first instance by Starbucks' centrally deployed technology tools, and are handled with significant involvement from and approval by the District 114 District Manager. Although the Union's witnesses testified about Store Manager involvement in these areas, their testimony was speculative and lacked personal knowledge. Starbucks' evidence strongly supports rebuttal of the single-store presumption.

B. The District 114 Stores are Functionally Coordinated at the District Level or Above.

As the foregoing discussion makes clear, all of the District 114 stores are coordinated both in terms of operations and labor relations. Starbucks collectively purchases, receives, and delivers supplies and products through the one supply chain system to the stores without any store-level

discretion. (SEA Tr. 106-108, 347-348). When a store runs low on supplies, partners contact and travel to other stores to pick up the needed supplies, sometimes on a daily basis. (SEA Tr. 106-108). All stores in District 114 and throughout the U.S. utilize an automated ordering system for certain products like food and merchandise, and for items not automatically ordered, all stores utilize the same inventory management system for ordering supplies.

Starbucks' uniform policies and procedures and deployment of technology tools to standardize hiring, scheduling, assigning work and discipline across District 114 is also strong evidence of functional coordination at the district level and above. Individual store managers, including the Broadway and Denny Store Manager, do not have authority to deviate from the centrally promulgated procedures. (SEA Tr. 40, 44, 53, 54, 63, 71, 72, 73, 89). The uniform deployment and utilization of technology tools serves the purpose of limiting local store autonomy and Store Manager discretion.

Perhaps most importantly, however, the functional coordination among the District 114 stores is demonstrated by the way Starbucks manages its partners on a district-wide basis. The District Manager visits stores in the district weekly, reviews staffing and hours reports weekly, conducts weekly meetings with all of the District 114 Store Managers, holds bi-monthly hiring and staffing meetings with all of the Store Managers in her district, holds promotional planning meetings with all of the Store Managers in her district, and is involved in all discipline and discharge decisions. (SEA Tr. 33-37, 291, 324-325). Mariscal testified that she interacts with the District Manager on a daily basis to seek her input regarding hours of operation, labor staffing, disciplinary issues, coaching, safety concerns, and any store incidents. (SEA Tr. 33-34).

Similarly, Starbucks designates proxy Store Managers to cover stores within a district when a particular Store Manager is unavailable to cover their store. (SEA Tr. 114-116). This is a regular

occurrence, as Store Managers utilize vacation time and are otherwise not working at their store 24/7. (SEA Tr. 113). In these instances, a proxy Store Manager will manage that particular store and is responsible to handle issues that may arise. (SEA Tr. 114). Mariscal testified that she designates a proxy Store Manager for approximately five to six weeks per year. (SEA Tr. 114). And conversely, she typically serves as a proxy Store Manager approximately two to three weeks per year. (SEA Tr. 115). Accordingly, it is clear that there is an expectation that Store Managers will frequently cover other stores within District 114.

Another strong example of the functional integration of the District 114 stores is the extensive partner interchange discussed below. Starbucks' operations are built on the premise that partners will work across the District 114 stores as business needs dictate. For that reason, partners are hired with the expectation that they will work at multiple stores during their employment. As explained in greater detail below, partners with "home" stores in District 114 can, and do, regularly work in other stores in the District beyond their "home" store.

In short, Starbucks centrally controls nearly every aspect of day-to-day store operations at the District 114 level or above. This purposeful and detailed centralized decision-making ensures a consistent Starbucks experience for customers regardless of which District 114 store they patronize. This extensive centralized control also enables partners to work seamlessly in any District 114 store without additional training to deliver the same customer experience, while continuing to enjoy the same terms and conditions of employment regardless of the store in which they are working. The functional coordination of Starbucks' operations also is strong evidence rebutting the single-store presumption and supports a multi-location unit consisting of all hourly partners working in District 114 as the only appropriate unit.

C. Partner Skills, Functions, and Working Conditions are the Same Throughout the District.

There is no dispute that all of the partners working in District 114 have the same basic job functions and skills, and enjoy the same wages, benefits, and other working conditions regardless of the store in which they work. Again, this is by design because it allows a District 114 partner to work seamlessly in any District 114 store without the need for retraining or making adjustments to wages and benefits. Specifically, the District 114 District Manager, Johnna Turvin, testified that the following working conditions are identical across the ten stores in District 114:

- Barista work duties;
- Shift supervisor work duties;
- Store Manager work duties;
- Beverages, equipment, food products;
- Compensation structure;
- Employment policies; and
- Promotional opportunities and procedures.

(SEA Tr. 336-340).

1. All District 114 Partners Have the Same Job Functions and Skills.

Consistent with Starbucks' business model of delivering the same customer and partner experience regardless of individual store, partner skills, functions and working conditions are the exact same across District 114. Partners throughout the district perform the same functions and deliver the same customer service at every store in the district. The training, functions, and services are all derived from Starbucks' intentional and meticulous business plan to control how stores precisely operate to ensure consistency of the customer experience.

Partners throughout District 114 are required to follow the same operating and policy manuals developed at Starbucks' headquarters in Seattle, including the Siren's Eye, the Partner Guide, the Operations Manual, and the Operation Excellence Guide, which specify what food items will be included in the weekly menu, the menu prices, instructions on how to display and

prepare food and drink items, the roles of the positions in the District, and any training necessary to complete these tasks. (M I Tr. 90-92; B I Tr. 350-352).

Partners in District 114 all operate the same equipment and are assigned to the same predetermined in-store work locations to perform specific roles and routines as guided by the Play Builder tool. (SEA Tr. 32; M I Tr. 89-90, 92; B I Tr. 93, 95-97; B I ER Ex. 17). Once assigned to in-store locations by the “play caller” (who most often is a shift supervisor), the partners perform specific roles and routines per detailed guidelines. (B I ER Ex. 17). For each role there is a corresponding routine that a partner must follow. (Id.). These roles and routines are consistent across District 114. (Id.; M I Tr. 89-90). In addition, partners must also follow the same steps and instructions when performing all store-related operations, *e.g.*, opening the store, “clocking in” their time, displaying merchandise, creating and serving drinks and food, stocking merchandise, placing orders in the point of sale (“POS”) system, closing out a transaction, and store closing duties. (M I Tr. 89-90, 92; B I Tr. 89, 94-95, 96-97, 249-250, 356, 358-59; B I ER Exs. 13, 17, 21).

2. All District 114 Partners Undergo the Same Orientation and Training, which is Centrally Determined.

All Partners in District 114 also receive the same training regarding food and store safety, which is centrally promulgated by Starbucks’ training team. (B I Tr. 87-88). Starbucks’ Operations, Products and Learning Development Teams oversee partner training needs, and create and implement scripts for new promotions, including for promotions to the position of Shift Supervisor. (M I Tr. 70-71, 75-80; B I Tr. 84-85, 369; Er. Exs. 14-15). There is no store-specific training, as all District 114 stores, and indeed all stores in Region I adhere to the same operating protocols developed centrally by Starbucks headquarters. (M I Tr. 70-71, 75-80).

The fact that Baristas and Shift Supervisors across District 114 possess the same skills,

perform the same functions, receive the same orientation and training, and enjoy the same working conditions strongly rebuts the single-store presumption, and shows that a multi-location unit consisting of all hourly partners in District 114 is the only appropriate unit.

D. All District 114 Partners Share the Same Centrally Determined Wages, Benefits, and Working Conditions.

Partners who work in District 114 stores earn the same wage rate regardless of the specific store in which they may be working on any given day. Wages and benefits for all partners in District 114 are set by Starbucks' compensation team in Seattle. (M I Tr. 82; Er. Ex. 203). Store Managers have no ability to change the wages or benefits in any individual District 114 store. (SEA Tr. 91). Annual wage increases are centrally determined; Store Managers have no discretion over them. (M I Tr. 83; B I Tr. 259, 284). Again, there is no differentiation based upon individual stores, which is consistent with the Starbucks model - that partners are available and seamlessly work across all District 114 stores while enjoying the same exact terms and conditions of employment.

All District 114 partners also receive the same exact vacation and paid time-off benefits. (M I Tr. 83; B I Tr. 286-90, 294; Er. Exs. 19-20). In addition, all District 114 partners receive access to the same exact additional benefits, including, but not limited to:

- Medical, dental, and vision coverage (after 20 hours)
- Short- & Long-Term Disability Coverage
- Life Insurance
- A yearly grant of stock
- Access to the Company's Stock Investment Plan
- Company's 401(k) Plan
- Partner & Family Sick Time
- Paid Parental Leave
- Lyra Mental Health
- Headspace
- Weekly free coffee mark outs
- Free coffee and food while working
- Care@Work
- Financial Assistance Program (CUP) Fund
- Food discounts
- Time and a half paid for holidays
- Family expansion reimbursement
- DACA filing fees
- Free bachelor's degree

- through Arizona State University
- Online courses on sustainability
- Starbucks Coffee Academy
- Coffeegear
- Commuter benefits
- Starbucks Rewards Partner

- Benefits
- Partner Discount Programs
 - Giving Match
 - Partner Connection & Fitness Reimbursement
 - Elite Athlete Program
 - Partner Recognition

(M I Tr. 83; B I Tr. 286-290, 294, Exs. 19-20).

Beyond receiving the same wages and benefits, all District 114 partners enjoy the same working conditions regardless of the store in which they work on a given day. For example, all partners within District 114 wear the same uniforms, access the same timekeeping system, use the same POS system, perform the same job duties and provide the same customer experience regardless of store. (M I Tr. 90; B I Tr. 292-293, 575). Working conditions do not vary by store.

E. The NLRB Has Held the Single-Store Presumption Rebutted Under Circumstances Similar to Those in This Case.

The quantum of evidence regarding central control of operations and labor relations, and common terms and conditions of employment in this case is similar to or greater than those cases in which the Board held that the employer had overcome the single-facility presumption. For instance, in *Super X Drugs*, 233 NLRB at 1114-15, the Board found that a multi-location unit was appropriate where the centralized control of operations and labor relations left the authority of store managers “severely circumscribed.” As in the instant matter, in *Super X*, all of the Company’s stores were similarly laid out and displayed and sold the same merchandise, and the district manager determined advertising, prices, operating hours, the number of employees in each position, and the hours to be worked by employees. The district manager was also required to approve leaves and pay raises, and while a store manager interviewed applicants and played a role in the hiring and firing process, the district manager was also a decision-maker in both. The Board

found that the employer's operations were "highly centralized" and that the only appropriate unit included all four of the employer's stores in the Chicago area or all five of its stores in Cook County.

Similarly, in *Kirlin's*, 227 NLRB at 1220-21, the Board held that a single-location unit was inappropriate because "of the integrated operation of the six stores, the centralized management of labor matters, commonality of supervision, interchange of employees, identical employee functions and terms and conditions of employment, the limited personal authority of each store manager, and the proximity of the two Carbondale stores within the same shopping mall." In its decision, the Board noted that purchasing, accounting and distribution of merchandise were handled centrally for all stores, all stores were similarly laid out and displayed and sold goods at the same prices, the operations manual was centrally drafted and established uniform guidelines for all stores, and employees performed the same functions, received the same wages and participated in common benefits across stores. While the individual store managers in *Kirlin's* were involved in the hiring, firing, and discipline process, and could recommend the same, which far exceeds the involvement of Starbucks' Store Managers in District 114, the Board found that the *Kirlin's* district manager "share[d] final authority" with the store manager. *Kirlin's*, 227 NLRB at 1221. Similar to the facts in this case, the store managers in *Kirlin's* had, at best, "limited authority" in daily labor relations decisions, but the Board found that the centralized control over operations showed a "lack of autonomy at the store-level" that rendered a multi-location unit appropriate.

Similarly, in *Big Y Foods, Inc.*, 238 NLRB 860 (1978), the Board found a multi-location unit appropriate and held that the three petitioned-for stores lacked sufficient local autonomy. In its decision, the Board noted that "[a]lthough it is apparent that the individual store managers

directly supervise employees, it cannot properly be concluded the managers significantly control or implement terms and conditions of employment of the liquor markets' employees." *Id.* at 861. While the Board recognized that local managers assigned duties and prepared schedules, this authority was circumscribed by the centralized control over employee hours and uniform policies. *See also Walakamilo Corp.*, 192 NLRB 878, 878 & n.4 (1971) (finding "individual store managers exercise little discretion" because the director of operations set wages, granted promotions, and had final authority with regards to grievance adjustments, even though individual store managers may hire employees and discharge employees); *Twenty-First Century Rest. of Nostrand Ave. Corp.*, 192 NLRB 881, 882 (1971) (finding individual restaurants subject to "close centralized control" notwithstanding that individual store managers were authorized to hire new employees at the state's minimum wage rate, could discharge new employees within a 90-day probationary period, and issue discipline); *White Castle System, Inc.*, 264 NLRB 267, 268 (1982) (noting individual store manager authority was "highly circumscribed" despite store supervisors being permitted to interview and hire employees subject to a district manager's approval); *Nakash, Inc.*, 271 NLRB 1408, 1409 (1984) (finding individual store manager's autonomy "severely circumscribed" where, although store manager hired individuals, the store manager had to adhere to "established guidelines" in hiring, and otherwise confer daily with a member of central management about hiring and firing decisions).

F. There is a High Degree of Employee Interchange Across the All Stores in District 114.

In addition to the significant evidence of centrally-controlled operations and labor relations, the record is replete with substantial testimonial and documentary evidence detailing the extensive level of partner interchange among stores in District 114. First, Store Managers in District 114 can and do cover multiple stores, and Store Managers can be assigned to cover another

store due to vacation, illness, and the like. (SEA Tr. 596-597). More importantly, partners may be directed to work a shift in any store in the district, regardless of which store is their home store, and this expectation is communicated during the hiring process and from the very beginning of employment. (SEA Tr. 100-105).

During the hearing, Starbucks provided raw data with specific partner information, dates, stores, and time punch details for all partners in District 114. (ER Ex. 226). Eli Hanna, who provided testimony in this case and the Mesa I case,⁵ testified to the authenticity and foundation for preparing the raw data spreadsheet identified as Employer Exhibit 226. (SEA Tr. 447-448). Starbucks also presented expert testimony from Dr. Matthew Thompson⁶ to analyze and explain the data contained in Employer Exhibits 223, 2225, and 226. (SEA Tr. 486-543). Dr. Thompson also prepared a report that provides a visual explanation of such data. (ER Ex. 229). Dr. Thompson's expert analysis demonstrates that Starbucks partners extensively interchange among the District 114 stores, thus, rebutting the single-store presumption.

1. Dr. Thompson's Expert Testimony Should be Given Significant Weight.

Here, Starbucks presented a large volume of raw and aggregate data regarding partner interchange coupled with statistical analysis. The Board has specifically recognized the value of statistical analysis to contextualize interchange data, concluding in *New Britain Transportation Co.*, 330 NLRB 397, 398 (1999), that interchange data presented without any statistical analysis was "of little evidentiary value." Performing such a statistical analysis is not something that the Board or Regional Directors are required to attempt, nor are they authorized to hire economic

⁵ The parties stipulated to incorporate by reference the following testimony regarding Mr. Hanna's background and qualifications as it related to collecting and preparing the data: Mesa I Tr. 167:8-169:8, 185:19-187:7, and 187:9-188:5. (SEA Tr. at 447-448).

⁶ The parties stipulated to incorporate by reference the following testimony regarding Dr. Thompson's qualifications and credentials as an expert, which was provided in the Buffalo II hearing: Tr. 138:4-143:2. (SEA Tr. 485).

experts of their own volition. *See* 29 U.S.C. § 154(a) (“Nothing in this subchapter shall be construed to authorize the Board to appoint individuals . . . for economic analysis.”). Having an expert conduct a statistical data analysis and testify regarding what that data means is not only relevant but inherently probative to assist the Regional Director to assess the instant matter, as the evidence presented regarding employee interchange bears directly upon the ultimate issues in this case.

2. The Analysis of Starbucks’ Interchange Data Demonstrates Consistent and Substantial Partner Interchange Throughout District 114.

Dr. Thompson’s analysis and testimony analyzed Starbucks’ interchange data in District 114 as a whole and also accounted for potential influencing factors like the impact of COVID-19, the impact of permanent transfers, and the impact of opening and closing stores during the data period. (SEA Tr. 486-543). As the NLRB’s case law makes clear, and as presented below, the rates of interchange identified by Starbucks’ data and Dr. Thompson’s analysis rebut the single-store presumption in this case. Between April 29, 2019, through December 12, 2021, approximately 33% of partners worked in more than one store in District 114. (SEA Tr. 488). Similarly, each of the Union’s witnesses testified that they have worked at stores other than Broadway and Denny in District 114. (SEA Tr. 556, 567, (Durkin), 617 (Ybarra)).

This level of interchange is sufficient to rebut the single-store presumption. *See, e.g., Budget Rent A Car*, 337 NLRB 884, 884-85 (2002) (19.0% interchange rate supported rebutting single-store presumption); *Twenty-First Century Rest. of Nostrand Ave. Corp.*, 192 NLRB 881, 882 (1971) (14.3% interchange rate supported rebuttal of single-store presumption); *McDonald’s*, 192 NLRB at 878-79 (multi-location unit appropriate where 58 out of 243 employees were temporarily transferred and the interchange rate was less than 1%).

a. Many Partners Working in District 114 Work in More than One Store.

Dr. Thompson analyzed data available for non-exempt Starbucks partners working in District 114 over a two-and one-half year period between April 29, 2019 and December 12, 2021. The data did not include information on Store Managers. (SEA Tr. 487). Figure 1 below illustrates the distribution of partners within District 114 by the number of stores in which they work:

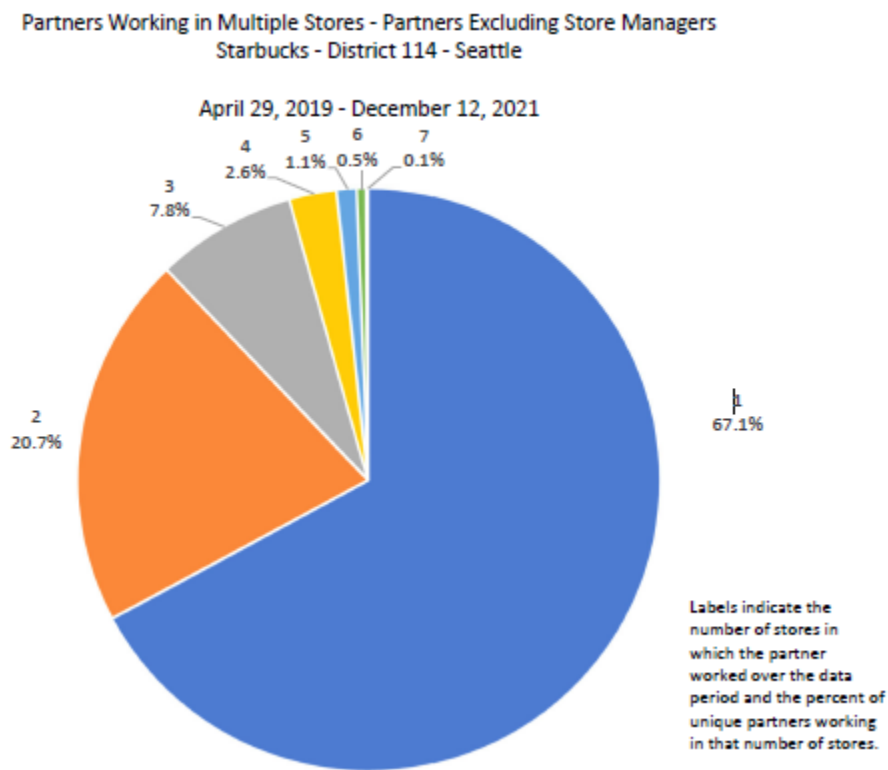


Figure 1

The figure demonstrates that 32.9%, nearly one-third, of all partners in District 114 worked at more than one store during the two-and a half-year time period. (*See also* Tr. 491-492).

The data at the petitioned-for store level – Store 304 – is also instructive. Less than half of Store 304 partners only worked in Store 304. (SEA Tr. 492). Roughly 47% of partners at Store 304 only worked in Store 304 over the designated time period. (Id.). Conversely, roughly 53% of

Store 304 partners worked at two or more stores during the designated time period. (Id.). This means that partners at the petitioned-for store actually work at more stores than the overall District 114 population, with more Store 304 partners working at multiple stores. This analysis is represented in Figure 2, which illustrates the distribution of partners at Store 304 by the number of stores in which they worked:

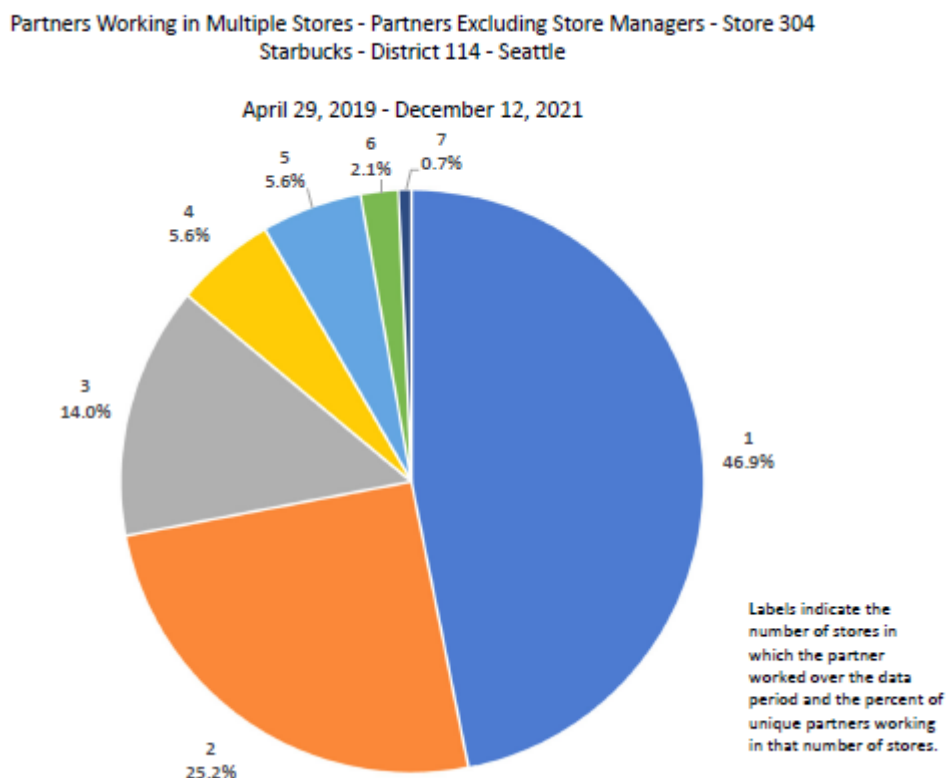


Figure 2

b. Partners Working Only in Their Home Store Are the Minority in Every Store in District 114, Including the Broadway and Denny Store.

Figure 3 below shows the composition of partners working in each store in District 114, designating which partners are assigned to that store as their home store and which partners

working in that store have another store as their home store.⁷ (SEA Tr. 493-494). Figure 3 further breaks down the composition of partners who are assigned to each store as their home store in blue and orange bars. (Id.) The blue bar represents partners who are assigned to that store as their home store and have only worked at their home store during the above-referenced time period. (Id.). The orange bar represents partners who are assigned to that store as their home store but have worked at more than one store during the above-referenced time period. (Id.). And the gray bar represents partners who worked in that store as a borrowed partner (i.e., that store was not the partner's home store). (Id.)

Significantly, at Broadway and Denny, only about 30 percent of the partners working in the store during the data period were assigned that store as their home store, while the other approximately 70 percent of partners working at Broadway and Denny during the time period were “borrowed” partners assigned to other home stores. (SEA Tr. 493-494). Furthermore, there are no stores within District 114 that are staffed entirely by partners from that home store. The majority of stores in District 114 are comprised of borrowed partners.

⁷ While there are currently ten stores in District 114, this chart lists eleven stores. (ER Ex. 229 at 3). This is because Store 305 is included in this chart, which was a store that closed during the data period and is currently not open. (SEA Tr. 494).

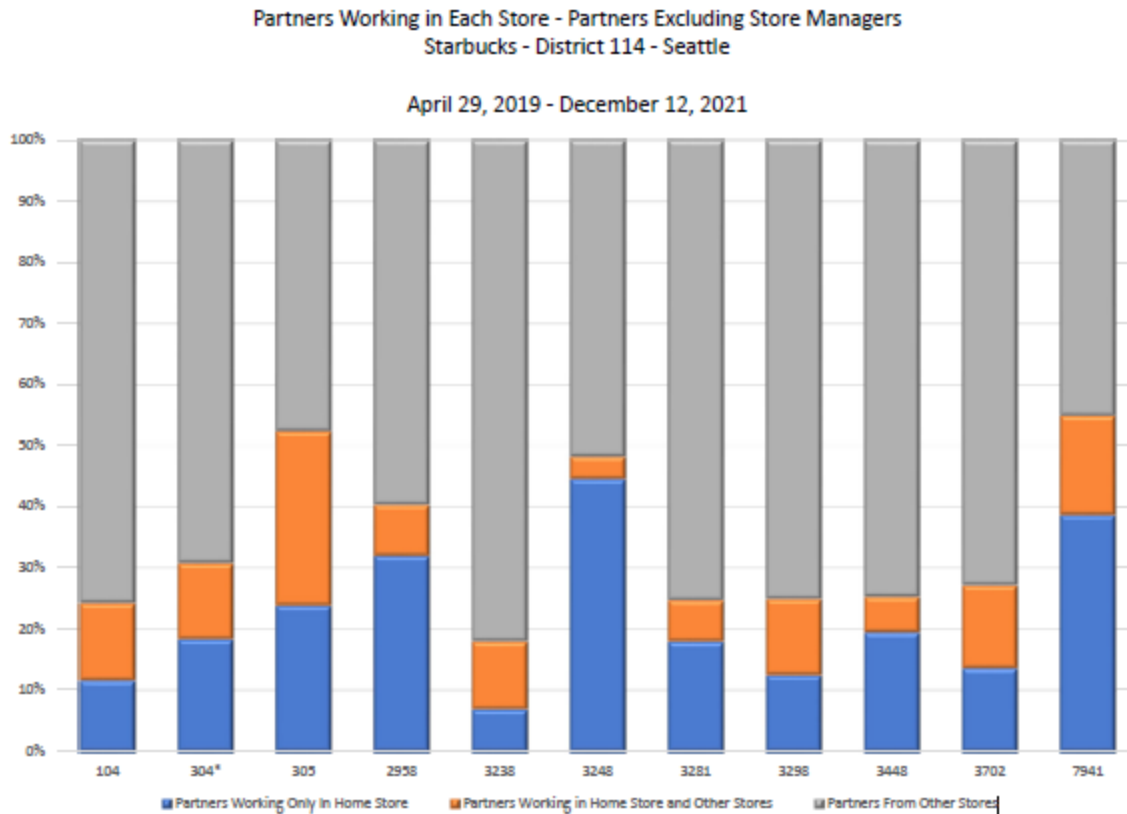


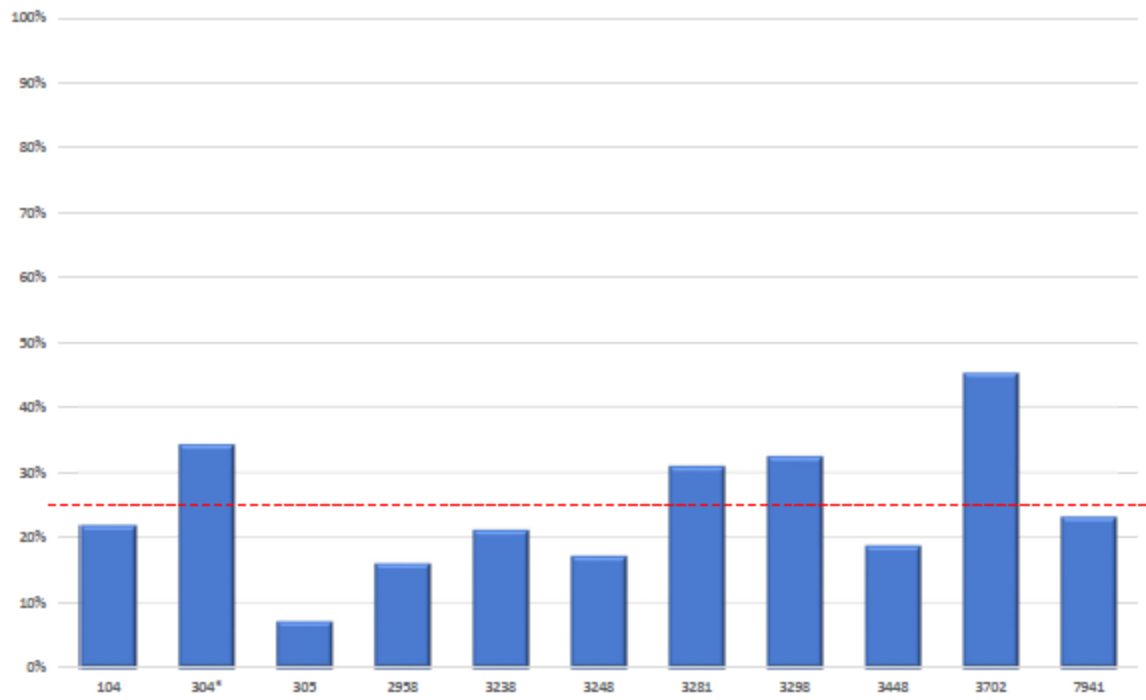
Figure 3

c. More than One-in-Four Store Days Require Borrowed Partners District-Wide, and more than One-in-Three Store Days Require Partners at Store 304.

Figure 4 below illustrates how common it is for a store within District 114 to operate using at least one borrowed partner in the store. (SEA Tr. 494-495). The red-dotted line indicates the district average of about 25 percent of store-days – one in four – which require borrowed partners to operate. This data means that in one out of every four days, a store engages in partner interchange. Across stores, the percent of days with interchange varies from about 6 percent to 45 percent. Importantly, within Broadway and Denny, about 35 percent, or one in every three days, are staffed using borrowed labor:

Store-Days Requiring at Least One Borrowed Partner - Partners Excluding Store Managers
Starbucks - District 114 - Seattle

April 29, 2019 - December 12, 2021



Note: The red dotted line represents the 25.3 percent of store-days requiring at least one borrowed partner across the entire market.

Figure 4

d. A Widespread Pattern of Geographic Borrowing Occurs Across All Stores in District 114

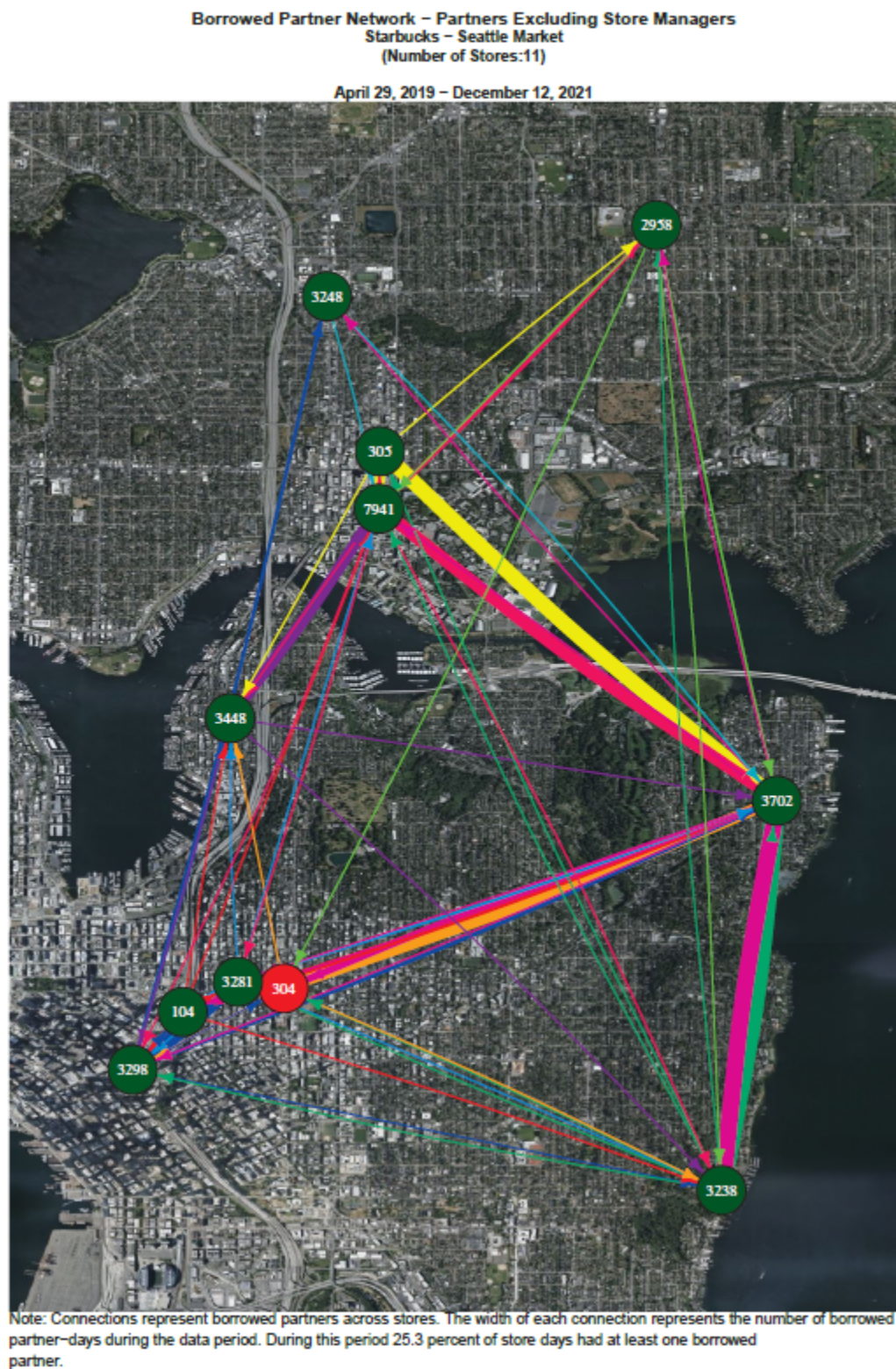


Figure 5

Figure 5 above is a map indicating the locations of all Starbucks stores in District 114.⁸ The petitioned-for store, Store 304, is red. The lines connecting the stores indicate the flow of borrowed partners across stores, with arrows indicating the direction of the borrowing. This interchange is widespread across the district. It is clear that each store both borrows and lends partners across the District 114 stores. A clear pattern of regular interchange between all stores in the district emerges from the network illustrated in the map, and no stores are isolated.

e. Changes During COVID Are Not Driving Patterns of Regular Interchange Between Stores.

Dr. Thompson also analyzed the impact of the COVID-19 pandemic on the pattern of interchange in District 114. (SEA Tr. 499-505; *see also* ER Ex. 229 at 8-11). If interchange were being driven primarily by the period of data since the initial COVID shut-down in March of 2020, the patterns of borrowed partner labor would be absent from the data when limited to the pre-COVID period (before March 1, 2020). However, this data still shows a significant measure of regular interchange between the time period of April 29, 2019 and February 29, 2020:

- Across the District, 25 percent (about 1 in 4) of partners in the data worked in more than one store during the pre-COVID period. (ER Ex. 229 at 8; SEA Tr. at 500).
- Within Broadway and Denny, 54 percent (over half) of partners worked in more than one store pre-COVID. (ER Ex. 229 at 9; SEA Tr. at 500).
- Pre-COVID, 70 percent of partners working at Store 304 were from a home store other than Store 304. (ER Ex. 229 at 10). Only two stores within District 114 were staffed with home store partners. All other stores within District 114 had a staff of majority borrowed partners from other home stores. (*Id.*).
- The pre-COVID period is nearly identical to the full data period in terms of rates of borrowing across District 114. (ER Ex. 229 at 11; SEA Tr. at 501-502). Roughly 24 percent of store days require at least one borrowed partner pre-COVID compared to 25 percent during the entire data period. (SEA Tr. 502).

⁸ Again, Store 305 was included in this chart as it was open for part of the data period but has since closed. (SEA Tr. 498-499).

Based on Dr. Thompson's analysis, he concluded that COVID-19 is not driving interchange and partner borrowing. (SEA Tr. 502). The data supports a clear pattern of regular interchange between all stores in the district.

f. The Closure of Store 305 and Associated Transitions Did Not Drive Interchange in District 114.

Additionally, Dr. Thompson analyzed the impact of Store 305's closure on interchange rates. (ER Ex. 229 at 15-20; SEA Tr. 505-509). After removing Store 305 data from the analysis, Dr. Thompson still found similar rates of interchange and employee borrowing across District 114. (SEA Tr. 505-506). Still, roughly thirty-three percent of partners worked in more than their home store over the data period. (SEA Tr. 505-506). Similarly, after removing Store 305 data from the analysis, borrowed partners are still utilized one-in-four store days in District 114, SEA Tr. 507, (ER Ex. 229 at 17). Geographically, similar borrowing patterns occurred across stores, demonstrating that the remaining stores in District 114 still each borrowed and lent partners frequently. (ER Ex. 229 at 20; SEA Tr. at 509).

Based on this data, Dr. Thompson testified that there is no significant difference in the borrowing rates after removing Store 305 from the data, and as a result, he concluded that Store 305's closure was not a factor driving interchange rates in District 114. (SEA Tr. 507-508).

g. Temporary Sharing of Labor Preceding or Following a Permanent Transfer of a Partner Between Stores Is Not Driving Interchange.

Dr. Thompson additionally analyzed the data controlling for permanent transfers between stores.⁹ He identified permanent transfers based on whether a partner's home store changed in the

⁹ In its Order denying Starbucks' Request for Review in Buffalo I, the Board disavowed the ARD's "suggestion that *Lipman's*, 227 NLRB 1436, 1438 (1977), stands for the proposition that permanent transfers are not relevant to the Board's analysis of employee interchange in this context." (03-RC-282115, et al, Order at 2 n.2).

raw data. (SEA Tr. at 509-515). He then removed any pairwise borrowing between the partner's original home store and new home store. (SEA Tr. 510). If interchange were being driven primarily by the sharing of partners preceding or following a permanent transfer, the patterns of borrowed partner labor would be absent from the data when excluding any shifts associated with these movements.

However, this was not Dr. Thompson's finding. Rather, Dr. Thompson concluded that permanent transfers did not affect interchange. (SEA Tr. at 509-510). The data, which excluded interchange relating to a partner's original and new home store, still showed that approximately one-third of partners worked at two or more stores within District 114 over the data period. (SEA Tr. 510; ER Ex. 229 at 20). The same mapping patterns also exist, which demonstrate that stores within District 114 regularly rely on borrowed partners. (SEA Tr. 514).

In sum, the data confirms that Baristas and Shift Supervisors in District 114 frequently work in multiple stores. Circumstances such as COVID-19, permanent store closures, and permanent transfers, were not factors that influenced partner interchange. This high level of partner interchange is obviously by design, as the Company's business model is premised on implementing the same exacting operational protocols across all stores for customer consistency and utilizing a dedicated workforce of partners who are able to seamlessly work in any District 114 store to meet business needs.

h. The Interchange Data Exceeds What the NLRB Has Required in Finding the Single-Store Presumption Rebutted.

The Company's data far exceeds the baseline standards for rebuttal of the single-location presumption in cases holding that a multi-location unit was appropriate versus the petitioned-for single stores. *See Budget Rent A Car Sys., Inc.*, 337 NLRB at 884-885 (concluding when taken as a whole, single-location presumption was rebutted where evidence demonstrated that temporary

transfers occur “a couple of times per month” and employer presented evidence of four temporary transfers over the first few months of the year in a proposed unit of 21 (19.0%).); *Kirlin's Inc. of Cent. Ill.*, 227 NLRB at 1220-1221 (explaining that transfers among stores to cover employee illnesses, vacations, training, and conducting inventory support a rebuttal of the presumption that a single-location unit is appropriate); *Super X Drugs*, 233 NLRB at 1115 (finding single-location presumption rebutted where employer presented evidence of 21 instances of temporary transfer and 3 permanent transfers out of an employee complement of 65 (32.3% temporary transfer rate)); *Gray Drug Stores, Inc.*, 197 NLRB 924, 924-926 (1972) (concluding there was “substantial and frequent interchange” supporting a multi-location unit where approximately 300 out of 700 employees (42.8%) engaged in temporary transfer.); *McDonald's*, 192 NLRB 878, 878-879 (1971) (holding multi-location unit was appropriate where 58 out of 245 employees (23.7%) were temporarily transferred and the overall interchange was less than 1%); *Twenty-First Century Rest. of Nostrand Ave. Corp.*, 192 NLRB at 882 (finding a multi-location unit was appropriate where managers transferred employees “to handle unusual changes in the volume of business at particular outlets” and 45 to 50 employees out of 350 employees (14.3%) were temporarily transferred).

i. The Union’s Labelling the Interchange “Voluntary” Does Not Diminish the Interchange Evidence.

Faced with this extensive and irrefutable data proving the high level of partner interchange, the Union may argue that partner interchange is “voluntary” and as such, is not strong evidence of true partner interchange. The Union did not provide any data or reliable testimony as to its voluntariness claims but only relied upon statements by witnesses who all testified that they volunteered to work in other stores. Importantly, Union witnesses admitted that if a sufficient number of volunteers to cover the necessary shifts could not be found, someone would have to be forced to cover the shifts. (SEA Tr. 598). Durkin testified that when it comes to shift coverage

that she cannot fill, she reaches out to the Store Manager, and it is up to the Store Manager to utilize particular processes for filling those shortages. (SEA Tr. 598). Ybarra testified that if she wants to find a partner to trade shifts with, she can ask Mariscal to help find someone. (SEA Tr. 632). Relatedly, the Union's exhibits, Petitioner Exhibits 9, 11, 12, 13, and 17, regarding shift coverage social media pages have limited probative value to the issues in this case because, as the Union's witnesses testified, the Store Manager may have other ways of filling shifts that the partners are not aware of or do not have personal knowledge of. (SEA Tr. 634-635).

The reality is that Starbucks operates a business and meets its forecasted and actual customer needs by scheduling and requiring its partners to work as scheduled, just as any business schedules and requires its employees to work. Partners do not simply decide when and where they want to work. As with other businesses, partners do provide coverage for other partners, but that commonplace business fact does not lessen the significance of the high level of partner interchange. Starbucks allows partners in different stores to exchange shifts provided it meets business needs because that flexibility is an interest partners share in a closely integrated structure. To answer the ultimate question of community of interests, voluntary interchange should not be given less weight when it is clearly a shared interest for partners to get their desired number of hours while at the same time providing them the ability to adjust their working schedules without a detrimental impact to the employer's business.

The record evidence details that Starbucks created a staffing model that is *specifically designed* to ensure that staffing needs are met by partners who regularly work in multiple stores. All partners are informed of this expectation upon hire and the culture of interchangeability permeates across District 114. But that does not mean partners simply decide when and where they

want to work without regard to the business needs. Of course, Starbucks can and does mandate when necessary that partners work in specific stores to fill specific needs.

When Broadway and Denny was closed due to vandalism, Durkin temporarily worked out of the Olive Way store (Store 3281). (SEA Tr. 588). She specifically testified that the Company gave her the option of working out of the Olive Way store without needing to perform any additional trainings or interviews. (SEA Tr. 596). Similarly, Rachel Ybarra was provided multiple store options to work out of when Store 304 closed, and she selected and worked out of another store without needing to perform any additional trainings or interviews. (SEA Tr. 631). When Store 304 reopened, Ybarra was able to come back and work out of that store again. (Id.). This testimony exemplifies the highly centralized operations within District 114, regardless of whether such options are voluntarily selected and utilized by partners.

Moreover, there is no basis in Board law for the Union's position that a partner's willingness to work across multiple stores as a clear expectation upon hire somehow undermines the extent of employee interchange under the law. The focus of the interchange analysis is whether a significant portion of the workforce is involved in interchange, which is patently the case herein.¹⁰

In addition to the high level of partner interchange, the record evidence establishes extensive contact among the District 114 partners. District 114 partners have regular contact by working together, connecting via email, texting, calling one another, social media and chat groups, and attending partner network (affinity group) and mentoring events in the district. (M I Tr. 39,

¹⁰ While Starbucks believes that the data overwhelmingly supports a multi-location finding, interchange is not a necessary condition for overcoming the single-location presumption. *See V.I.M. Jeans*, 271 NLRB 1408, 1409 (1984) (“Viewed against the background of the highly centralized administration of all nine stores, the daily contact with [Company President] and the other supervisors and the restricted authority of the store manager, the fact that there is not substantial employee interchange pales in its importance to the determination of the issue.”).

54, 65-66). Also, partners have contact with one another and share supplies across District 114's stores. (SEA Tr. 106-108). This level of contact further supports a multi-location unit.

The extensive partner interchange in District 114 strongly rebuts the single-store presumption and shows that a multi-location unit consisting of the entire district is the only appropriate unit.

G. All District 114 Stores are Located in Close Proximity to One Another, and Closer than the Locations in Many Multi-Location Units Found Appropriate by the Board.

All of the stores in District 114 are in relatively close geographic proximity to one another. (ER Ex. 229 at 5). The geographic proximity of the stores in District 114 is reinforced by the interchange data mapped on Figure 5 generated by Dr. Thompson and reproduced above.

This close proximity between stores is intentional. Starbucks has intentionally designed its business operations, including its district structure to facilitate the movement of partners across stores in close geographic proximity to one another. This fact is evident in the district-based hiring process, the district-based scheduling process, and the significant evidence of partner interchange between stores. Moreover, these stores are significantly closer together than the stores in *Gray Drug Stores*, 197 NLRB at 924-926, which were deemed sufficiently close together for a multi-location unit despite being located along a 300 mile stretch up the Florida coast. *See also Dayton Transp. Corp.*, 270 NLRB 1114, 1115-16 (1984) (terminals a total of 175 miles apart were not distant and, in any event, the nature of the employer's operations, the similarity of skills, and the frequency of interchange among drivers at the terminals and the resultant commonality of supervision demonstrated a shared community of interests rendering a single-location unit inappropriate).

The close geographic proximity of the stores in District 114 strongly rebuts the single-store presumption and supports a multi-location unit consisting of the entire district as the only

appropriate unit.

H. The Parties Have No Bargaining History But Partners Across District 114 Have Shared Interests.

While there is no bargaining history, the evidence in this case shows that Starbucks' hourly partners share a strong community of interests throughout District 114. Bargaining on a single location basis is inconsistent with the Company's business model premised on partners seamlessly working across District 114 stores, including the petitioned-for Broadway and Denny store. Bargaining on a multi-location basis is consistent with the Company's highly integrated operations, manifested through the high level of partner interchange. Furthermore, bargaining at a single location does not make practical sense because there is no local autonomy at the store level.

IV. THE UNION'S EFFORT TO SECURE VOTES IN A SINGLE DISTRICT 114 STORE DEFIES THE REALITY OF DISTRICT 114 OPERATIONS AND IS NOT CONDUCTIVE TO STABLE LABOR RELATIONS.

The Union's effort to seek an election in a single store, or likely in a series of single-store units as it is doing in numerous locations throughout the country, is not conducive to stable labor relations. Courts and the Board have long recognized that, in exercising its discretion to determine a unit appropriate for the purposes of collective bargaining, the Board must assure that the approved unit creates a situation where stable and efficient bargaining relationships can occur. *See Colgate-Palmolive-Peet Co. v. NLRB*, 338 U.S. 355, 362 (1949) ("To achieve stability of labor relations was the primary objective of Congress in enacting the [NLRA]."); *NLRB v. Catherine McAuley Health Center*, 885 F.2d 341, 344 (6th Cir. 1989) ("In addition to explicit statutory limitations, a bargaining unit determination by the Board must effectuate the Act's policy of efficient collective bargaining.").

The goal of employee free choice must be balanced with the need to assure a stable, efficient collective bargaining relationship. *See Allied Chem. Workers v. Pittsburgh Plate Glass*

Co., 404 U.S. 157, 172-73 (1971) (citing *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146, 165 (1941)); *Kalamazoo Paper Box Co.*, 136 NLRB 134, 137 (1962)). “As a standard, the Board must comply, also, with the requirement that the unit selected must be one to effectuate the policy of the Act, the policy of efficient collective bargaining.” *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. at 165. To do otherwise undermines, rather than promotes, efficient and stable collective bargaining. *See, e.g., Bentson Contracting Co.*, 941 F.2d 1262, 1265, 1269-70 (D.C. Cir. 1991); *see also Fraser Eng’g Co.*, 359 NLRB 681, 681 & n.2 (2013).

The statutory requirement of stable labor relations and effective collective bargaining is a prominent reason why the Board and courts have emphasized that “the manner in which a particular employer has organized his plant and utilizes the skills of his labor force has a direct bearing on the community of interest among various groups of employees in the plant and is thus an important consideration in any unit determination.” *Bentson*, 941 F.2d at 1270, n.9 (citing *Gustave Fisher*, 256 NLRB at 1069 n.5 and quoting *International Paper Co.*, 96 NLRB 295, 298 n.7 (1951)); *Catherine McAuley*, 885 F.2d at 345; *Fraser Eng’g*, 359 NLRB at 681 & n.2. As similarly observed in *NLRB v. Harry T. Campbell Sons’ Corporation*:

But winning an election is, in itself, insignificant unless followed by stable and successful negotiations which may be expected to culminate in satisfactory labor relations....If the Board’s selection of the appropriate bargaining unit...[here, a separate department of an integrated quarry operation] were to stand and bargaining is undertaken, neither party on the stage at the bargaining table could overlook the fact standing in the wings are more...[unrepresented] employees, employees who cannot be separated in terms of labor relations from the small group of employees directly involved.... The Board here has created a fictional mold within which the parties...[must] force their bargaining relationships. In the language of *Kalamazoo Paper Box Corp.*...such a determination “could only create a state of chaos rather than foster stable collective bargaining,” because in the “fictional mold” the prospects of fruitful bargaining are overshadowed by the prospects of a breakdown in bargaining.

407 F.2d 969, 978 (4th Cir. 1969). Fruitful bargaining breaks down because both parties would be necessarily focused on the impact of their bargaining decisions on the larger, unrepresented group of employees with whom the unit employees clearly share a significant community of interests. *See also Szabo Food Servs., Inc. v. NLRB*, 550 F.2d 705, 709 (2d Cir. 1976) (“In view of the high degree of integration of the employer’s...business operation, the practical necessities of collective bargaining militate against the creation of a fractured bargaining unit, with its attendant distortion of the employer’s business activities and labor relations....”).

The Union’s effort to separate a single store from the ten stores in the highly-integrated District 114 creates the very situation the Supreme Court, numerous Courts of Appeal, and the Board have cautioned against. As fully explained above, virtually all of the bargainable employment terms are controlled at the district level, regional level, or national level. Starbucks has deliberately organized the District in this way so that: (1) the customer experience in each store is the same; and (2) District 114 partners can and do work in any store in the market without the need to retrain, while receiving the same wages and benefits and utilizing the same policies, human resources procedures and technology.

If the Union’s petitioned-for bargaining unit is allowed to stand, terms and conditions will not only vary store by store, but the parties will be presented with the issue of what terms and conditions apply to a partner who is temporarily transferred into a store should the voters vote for union representation. Separate negotiations on differing timelines based on the timing of elections and potentially separate contracts in District 114 could result, especially given the Union’s intent and actions in petitioning additional store-by-store locations, which is not based on the well-established community of interests shared across District 114. This piecemeal representation is in no one’s interest. *DPI Secuprint, Inc.*, 362 NLRB No. 172 (2015) (Member Johnson, dissenting)

(“The trend toward smaller units - or units comprised of employees not significantly distinguishable from their coworkers except by the extent of organizing - cannot foster labor peace.”).

As a result, allowing bargaining to occur on a store-by-store basis, rather than a district-wide basis, would create a “‘fictional mold’ [in which] prospects of fruitful bargaining are overshadowed by the prospects of a breakdown in bargaining.” *Harry T. Campbell Sons’ Corp.*, 407 F.2d at 978 (citing *Kalamazoo Paper Box Co.*, 136 NLRB at 137).

V. THE UNION’S EFFORT TO HOLD ELECTIONS IN MULTIPLE SINGLE-STORE BARGAINING UNITS VIOLATES SECTION 9(C)(5).

Further, ordering an election solely at the Broadway and Denny store would generate a violation of Section 9(c)(5), which provides: “[i]n determining whether a unit is appropriate... the extent in which the employees have organized shall not be controlling.” 29 U.S.C. § 159(c)(5). The U.S. Supreme Court has cautioned that enforcing courts “should not overlook or ignore an evasion of the § 9(c)(5) command.” *NLRB v. Metro. Life Ins. Co.*, 380 U.S. 438, 442 (1965). The community of interest facts at issue, precedent with respect to determining the appropriate bargaining unit, and whether the unit determination is adequately explained, are all analyzed in determining whether a Section 9(c)(5) violation exists. *See, e.g., Lundy Packing Co.*, 68 F.3d 1577, 1580-83 (4th Cir. 1995); *May Dept. Stores Co. v. NLRB*, 454 F.2d 148, 150-51 (9th Cir. 1972).

In this case, the evidence and the law demonstrate that the single-store presumption has been rebutted, and that the smallest appropriate unit is one consisting of all hourly Baristas and Shift Supervisors working in District 114. Just as in *Szabo Food Markets*, 126 NLRB 349, 350 (1960), where the Board found that an arbitrary grouping of stores was controlled by the extent of organization, the single store petitioned-for here by the Union is part of the larger District 114. It

is operated based on policies and procedures applicable to all stores in the District. The partners working in the Broadway and Denny store have the same training, wages, benefits, uniforms, and employment policies; and, they interchange on a frequent basis between stores in the district. There is simply no basis on which to carve out one store from the whole of District 114. On these facts, and in light of the Board precedent discussed above, the Union's selection of the Broadway and Denny store in which to pursue an election is arbitrary and controlled by the extent of its organizing in violation of Section 9(c)(5) of the Act. *See also Malco Theatres, Inc.*, 222 NLRB 81, 82 (1976) (petitioned-for unit of five theaters out of eight in the Memphis area was inappropriate where employees at all theaters had virtually identical wages and benefits, common supervision, common operating policies, employee interchange between theaters, and were all located in a metropolitan area); *Kansas City Coors*, 271 NLRB 1388, 1389-90 (1984) (petition seeking only some, not all of employer's locations was inappropriate where locations were only 25-30 miles apart at most, all labor relations policies and methods of operation were employer-wide and controlled by employer policy, employees at the stores performed the same work in the same job classifications and under the same employment terms, and there was "some" interchange of employees and equipment among the locations).

VI. CONCLUSION.

For all of the above reasons, the Union's request for a randomly selected single-store election in District 114 is not appropriate. Starbucks presented sufficient evidence at the hearing rebutting the single-facility presumption because Store 304, as well as the other ten stores in District 114, does not maintain local autonomy, control, or authority over labor relations and working conditions. Starbucks respectfully requests that the Region direct a multi-location election for the Baristas and Shift Supervisors working across the ten District 114 stores and dismiss the Union's petition.

Respectfully submitted,

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CERTIFICATION OF SERVICE

I certify that on January 31, 2022, I caused a copy of the foregoing Post-Hearing Brief to be e-Filed and served electronically upon the following:

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